

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	10
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	1	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 1 provides basic information on the structure and function of the professional licensing boards, formally part of the Banking/Professional Licensing Bureau and are now part of DIAL’s Licensing Division. The boards are responsible for the licensing and regulation of the specified boards: Iowa Accountancy Examining Board, Architectural Examining Board, Engineering and Land Surveying Examining Board, Interior Design Examining Board, Landscape Architectural Examining Board, Real Estate Appraiser Examining Board and Real Estate Commission.

The Boards are dedicated to the protection of the public through responsible regulations. To achieve this goal and to ensure citizens of the state receive professional, competent, and safe services, each board:

- adopts rules and establishes standards,
- examines, licenses, certifies, or issues permits or licenses to practitioners,
- sets standards for license renewal and continuing education;
- investigates all complaints filed and considers alleged violations of its practice or title act and Iowa regulations;
- conducts disciplinary hearings; and
- actively monitors the compliance of licensees with orders issued by the board.

The rules benefit the public and licencees in knowing about the shared organization and administration of the professional licensing boards.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is achieved, as each of the rules function to inform the public about the organization and administration of the boards.

What are the costs incurred by the public to comply with the rule?

None.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is needed to regulate the professions as directed in Iowa Code. This work is done with a focus on protecting the public who receive services from these licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

These rules will aid licensees and the general public better understanding the boards.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

- 1.1 removes outdated language.
- 1.2 removes outdated language.
- 1.3 removes outdated language.
- 1.4 removes outdated and duplicative statutory.
Formerly 1.6, now 1.5 removes outdated language.
- Formerly 1.7, now 1.6 removes outdated language.
- Formerly 1.8, now 1.7 removes outdated and unneeded language.
- Formerly 1.9, now 1.8 removes outdated language.
- Formerly 1.10, now 1.9 removes outdated and unneeded language.
- Formerly 1.11, now 1.10 removes outdated and unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

1.5

CHAPTER 1
ORGANIZATION AND OPERATION

193—1.1(546) Purpose of chapter 1. This chapter describes the organization and operation of the accountancy examining board, architectural examining board, engineering & land surveying examining board, interior design examining board, landscape architectural examining board, real estate appraiser examining board, and the real estate commission of the department of inspections, appeals, and licensing (hereinafter referred to as “professional licensing boards

193—1.2(546) Scope of rules. The rules for the professional licensing boards are promulgated under Iowa Code chapter 17A and sections 10A.103 and apply to all matters before the professional licensing boards. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various boards from any duty under the laws of this state.

193—1.3(546) Definitions.

“*Administrator*” means the director of the department of inspections, appeals, and licensing.

“*Board*” means an examining board or commission within department of inspections, appeals, and licensing.

“*Department*” means the department of inspections, appeals, and licensing.

“*License*” means any license, registration, certificate, or permit that may be granted by one of the professional licensing boards.

“*Licensee*” means any person granted a license by one of the professional licensing boards.

“*Person*” means an individual, corporation, partnership, association, professional corporation, licensee, certificate holder, or registrant.

“*Staff*” means employees assigned to one of the professional licensing boards

193—1.4(546) Purpose of the—professional licensing boards. The professional licensing boards coordinate the administrative support for the following boards:

1.4(1) The engineering and land surveying examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542B, Professional Engineers and Land Surveyors, and board rules published under agency number [193C] in the Iowa Administrative Code.

1.4(2) The accountancy examining board is an eight-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542, Public Accountants, and board rules published under agency number [193A] in the Iowa Administrative Code.

1.4(3) The real estate commission is a seven-member commission appointed by the governor and confirmed by the senate. The commission administers Iowa Code chapters 543B, Real Estate Brokers and Salespersons; 543C, Sales of Subdivided Land Outside of Iowa; 557A, Time-Shares; and commission rules published under agency number [193E] in the Iowa Administrative Code.

1.4(4) The architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544A, Licensed Architects, and board rules published under agency number [193B] in the Iowa Administrative Code.

1.4(5) The landscape architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544B, Landscape Architects, and board rules published under agency number [193D] in the Iowa Administrative Code.

1.4(6) The real estate appraiser examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 543D, Real Estate Appraisals and Appraisers, and board rules published under agency number [193F] in the Iowa Administrative Code.

1.4(7) The interior design examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544C, Registered Interior Designers, and

board rules published under agency number [193G] in the Iowa Administrative Code.

193—1.5(546) Responsibilities of the boards. All of the boards retain the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters. Each board will adopt rules pursuant to Iowa Code chapter 17A. Decisions by each board are final agency actions for purposes of Iowa Code chapter 17A.

193—1.6(546) Responsibilities of the administrator.

1.-6 (1) To make rules pursuant to Iowa Code chapter 17A to implement board duties except to the extent that rule-making authority is vested in the boards in the bureau.

1.-6 (2) To carry out policy-making and enforcement duties assigned to the boards under the law.

1.-6 (3) To hire, allocate, develop, and supervise members of the staff employed to perform the duties assigned to the boards, including designating staff to act as the executive officer, who may be referred to as the board administrator, for and lawful custodian of the records of each board in the bureau.

1.-6 (4) To coordinate the development of an annual budget for the boards.

1.-6 (5) To supervise and direct personnel and other resources to accomplish duties assigned by law.

1.-6 (6) To authorize expenditures from any appropriation or fund established on behalf of the boards.

1.-6 (7) Except to the extent that decision-making authority is vested in the boards or other body, decisions of the administrator are final agency actions pursuant to Iowa Code chapter 17A.

1.-6 (8) Except to the extent otherwise vested in the boards, the administrator has the authority to establish fees assessed to the regulated industry.

193—1.7(546) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the boards, the boards are the principal custodians of its own orders, statements of law or policy issued by the boards, legal documents, and other public documents on file.

Any interested party may examine all public records promulgated or maintained by the boards during regular business hours.

193—1.8(272C,542,542B,543B,544A,544B,544C) Applicant contact information. In addition to the mailing address(es) that need to be provided in accordance with the individual board's rules, applicants of the boards need to provide a telephone number and, if applicable, an email address. The boards will honor the "safe at home" address issued by any state's program and protective orders in domestic abuse proceedings or otherwise issued to preserve confidentiality of a person's physical location.

193—1.9(272C,542,542B,543B,544A,544B,544C) Newsletter.

1.-9 (1) The administrator or administrator's designee may publish or contract with a vendor to publish a newsletter as a nonpublic forum to disseminate official information related to the regulated professions. This official information may include statutory requirements, statutory changes, rules, rule changes, proposed or pending rule changes, licensing requirements, license renewal procedures, board action, board interpretative rulings or guidelines, office procedures, disciplinary action, ethical or professional standards, education requirements, education opportunities (prelicense education, continuing education, and professional development), board business, board meetings, board news, and matters related thereto.

1.-9 (2) The boards may notify licensees about matters such as license renewal in the newsletter.

193—1.10(272C,542,542B,543B,544A,544B,544C) Applications. Unless otherwise regulated by an individual board's rules, abandoned applications are deemed withdrawn. An application is abandoned if the applicant has not accessed or modified the application through the electronic licensing database within the preceding six months.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	252
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

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Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	1
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	2	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rules specifies the how contested case hearing fee costs are accounted and allocated.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is achieved, as each of the rules function to inform the public and those who are assessed a hearing fee.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Those who choose to have a contested case hearing are assessed a fee of \$75 as allowed for in Iowa Code 272C.6ato help offset the costs of the hearing.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is need to support the boards' responsibilities.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Staff is needed to collect and allocate the fee.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

2.1 removes outdated and unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 2
ALLOCATION OF DISCIPLINARY FEES AND COSTS

193—2.1(272C) Allocation of disciplinary fees and costs.

2.1(1) Definitions.

“Board(s)” includes the professional licensing boards-as defined in IAC 191-1.

2.1(2) All hearing fees and costs assessed by the boards will be paid directly to the department and held in a separate fund administered by the administrator.

2.1(3) The administrator will distribute moneys held in this fund during the fiscal year in which those moneys are paid. Distributions from the fund are made upon the request of a board and in the sole discretion of the administrator. A distribution received by a board under this chapter will be used only for expenditures related to disciplinary hearings.

2.1(4) The administrator will consider the following factors in exercising discretion as to whether to distribute funds to a requesting board:

- a. The remaining funds in the board’s allocated appropriation for disciplinary hearings in that fiscal year.
- b. The number of disciplinary hearings the board has scheduled for the remainder of that fiscal year; the nature and seriousness of those hearings; and the public health, safety, and welfare interests implicated by those hearings.
- c. Whether the board has adopted and implemented hearing cost recovery rules.

2.1(5) The administrator will distribute a percentage of the remaining fees and costs to each board.

2.1(6) The fees and costs allocated back to the individual professional licensing boards is considered repayment receipts as defined in Iowa Code section 8.2. The fees and costs allocated back to each professional board are applied to the costs incurred by each profession for prosecution of contested cases which could result in disciplinary action.

This rule is intended to implement Iowa Code subsection 272C.6(6).

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	77
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	4
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	3	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rules specifies the the process for vendors to appeal a bid decision when a formal bidding process is not handled by the department of administrative services.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is achieved, as each of the rules function to inform vendors of the appeal process.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Vendors who want to appeal a decision will incur time and effort into the appeal process and well as incidental costs.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is need to support the boards' responsibilities.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

These rules allow for appeals of unsuccessful vendor bids.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

3.1 removed unneeded language.
3.2 removed unneeded language.
3.3 removed unneeded language.

3.4 removed unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 3
VENDOR APPEALS

193—3.1(546) Purpose. This chapter outlines a uniform process for vendor appeals for all professional licensing boards as defined in IAC 191-1. The process is applicable only when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

193—3.2(546) Vendor appeals. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the board may appeal by filing a written notice of appeal with the board within five days of the date of the award, exclusive of Saturdays, Sundays, and legal state holidays. A written notice may be filed by e-mail. The notice of appeal needs to state the vendor's completed legal name, street address, telephone number, email address, and the specific grounds upon which the vendor challenges the board's award, including the legal authority, if an, and be received by the board within the time frame specified to be considered timely. The notice of appeal commences a contested case.

193—3.3(546) Procedures for vendor appeals. Each board's procedures for licensee disciplinary hearings are applicable, except as provided in these rules.

3.3(1) Upon receipt of a notice of vendor appeal, the board will issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing will be sent to the e-mail address provided by the appellant unless the appellant specifically requests that notice be sent by certified mail. A hearing will be held within 60 days of the date the notice of appeal was received by the board.

3.3(2) All hearings are open to the public.

3.3(3) Discovery requests, if any, will be served by the parties within ten days of the filing of the notice of appeal. Discovery responses or objections are due at least seven business days prior to hearing.

3.3(4) At least three business days prior to the hearing, the parties will exchange witness and exhibit lists. The parties will be limited at hearing to the witnesses and exhibits timely disclosed unless the board finds good cause to allow additional witnesses or exhibits at hearing.

3.3(5) The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or virtually. When not conducted in person, all exhibits will be delivered to the board or administrative law judge no less than two business days prior to the hearing.

3.3(6) Oral proceedings will be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand will bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters will be paid for by the requester.

3.3(7) Any party appealing the issuance of a notice of award may petition for stay of the award pending its review. The petition will be filed with the notice of appeal and state the reasons justifying a stay. The filing of the petition for stay does not automatically stay the award. The board may grant a stay when it concludes that substantial legal or factual questions exist as to the propriety of the award, the party will suffer substantial and irreparable injury without the stay, and the interest of the public or licensees will not be significantly harmed. A stay may be vacated at any time upon application by any party or the board on its own motion with prior notice to all parties.

3.3(8) The record of the contested case includes all materials specified in Iowa Code subsection 17A.12(6) and any other relevant procedural documents regardless of their form.

3.3(9) The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

3.3(10) Any request for continuance need to be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

3.3(11) Requests for rehearing need to be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

3.3(12) Judicial review of the board's final decision may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

193—3.4(546) Procedures for board referral to an administrative law judge. The board, in its discretion, may refer a vendor appeal for hearing before a qualified administrative law judge. The hearing procedures will be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer will constitute a proposed decision. Board review of a proposed decision will be according to Iowa Code subsection 17A.15(2) and this chapter. Nothing in this rule prevents the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure. The appealing vendor may also request that an administrative law judge act as presiding officer pursuant to 193—subrule 7.10(2).

3.4(1) The proposed decision becomes the final decision of the board 14 days after mailing of the proposed decision, unless prior to that time a party submits an appeal of the proposed decision, or the board seeks review on its own motion.

3.4(2) Notice of an appeal for review of a proposed decision or notice of the board's own review will be mailed to all parties by the board's executive officer. Within 14 days after mailing of the notice of appeal or the board's review, any party may submit to the board exceptions to and a brief in support of or in opposition to the proposed decision, copies of which will be mailed by the submitting party to all other parties to the proceeding. The board's executive officer will notify the parties if oral argument will be heard and specify whether oral argument will be heard in person, by telephone or virtually. The executive officer will schedule the board's review of the proposed decision not less than 30 days after mailing of the notice of appeal or the board's own review.

3.4(3) Failure to appeal a proposed decision will preclude judicial review unless the board reviews on its own motion.

3.4(4) Review of a proposed decision will be based on the record and limited to the issues raised in the hearing. The issues will be specified in the notice of appeal of a proposed decision. The party requesting the review will be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

3.4(5) Each party will have the opportunity to file exceptions and present briefs. The executive officer may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the executive officer shall notify all parties of the date, time and location at least ten days in advance.

3.4(6) The board will not receive any additional evidence, unless it grants an application to present additional evidence. Any such application will be filed by a party at least five business days in advance of oral argument. Additional evidence will be allowed only upon a showing that it is material to the outcome and that there were good reasons for failure to present it at hearing. If an application to present additional evidence is granted, the board will order the conditions under which it shall be presented.

3.4(7) The board's final decision will be written and may incorporate all or part of the proposed decision.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	41
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	41

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

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What is the intended benefit of the rule?

This chapter outlines the process for applicants and licenses to establish legal presence and to provide a valid social security number pursuant to federal and state law.

Is the benefit being achieved? Please provide evidence.

Yes, all applicants and licensees provide required proof as necessary to abide by statute.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. There is not generally a cost to applicants and licensees as most typically have the information in their possession.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is need to support the boards' responsibilities.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter provides that applicants and licensees have the proper identification to work in the state.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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- 4.1 removes outdated information.
- 4.2 removes unneeded language.
- 4.3 removes unneeded language.
- 4.4 removed outdated and unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 4
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

193—4.1(546) Purpose. This chapter outlines a uniform process for applicants and licensees of the professional licensing boards as defined in IAC 191-1 to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C.1621). This chapter also addresses the requirement that a license applicant provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for purposes including the collection of child support obligations and debts owed to the state of Iowa.

193—4.2(546) Applicability.

4.2(1) Applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal. Acceptable evidence (List A) is outlined in subrule 4.3(1).

4.2(2) Applicants and licensees residing in the United States, other than those described in subrule 4.2(1) above, may be requested to provide evidence of lawful presence in the United States at the time of initial licensure and with every subsequent renewal. Acceptable evidence (List B) is outlined in subrule 4.3(2).

4.2(3) Evidence is not required by foreign national applicants or licensees who are not physically present in the United States.

193—4.3(546) Acceptable evidence. The professional licensing boards accept as proof of lawful presence in the United States documents outlined in Lists A and B below. The professional licensing boards will not routinely retain the evidence sent and will not return the evidence once submitted. Documents may be retained in computer “imaged” format. Legible copies will be accepted. Original documents will not be necessary unless a question arises concerning the documentation submitted.

4.3(1) List A—acceptable documents to establish U.S. citizenship.

a. A copy of a birth certificate issued in or by a city, county, state, or other governmental entity within the United States or its outlying possessions.

b. U.S. Certificate of Birth Abroad (FS-545, DS-135) or a Report of Birth Abroad of U.S. Citizen (FS-240).

c. A birth certificate or passport issued from:

1. Puerto Rico, on or after January 13, 1941.
2. Guam, on or after April 10, 1989.
3. U.S. Virgin Islands, on or after February 12, 1927.
4. Northern Mariana Islands after November 4, 1986.

5. American Samoa.
 6. Swain's Island.
 7. District of Columbia.
 - d. A U.S. passport (expired or unexpired).
 - e. Certificate of Naturalization (N-550, N-57, N-578).
 - f. Certificate of Citizenship (N-560, N-561, N-645).
 - g. U.S. Citizen Identification Card (I-79, I-197).
 - h. An individual Fee Register Receipt (Form G-711) that shows that the person has filed an application for a New Naturalization or Citizenship Paper (Form N-565).
 - i. Any other acceptable document which establishes a U.S. place of birth or indicates U.S. citizenship.
- 4.3(2) List B—acceptable documents to establish alien status.
- a. An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). Evidence includes:
 1. INS Form I-551 (Alien Registration Receipt Card commonly known as a “green card”); or
 2. Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.
 - b. An alien who is granted asylum under Section 208 of the INA. Evidence includes:
 1. INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the INA.
 2. INS Form I-668B (Employment Authorization Card) annotated “274a.12(a)(5).”
 3. INS Form I-776 (Employment Authorization Document) annotated “A5.”
 4. Grant Letter from the Asylum Office of INS.
 5. Order of an immigration judge granting asylum.
 - c. A refugee admitted to the United States under Section 207 of INA. Evidence includes:
 1. INS Form I-94 annotated with stamp showing admission under Section 207 of the INA.
 2. INS Form I-668B (Employment Authorization Card) annotated “274a.12(a)(3).”
 3. INS Form I-766 (Employment Authorization Document) annotated “A3.”
 4. INS Form I-571 (Refugee Travel Document).
 - d. An alien paroled into the United States for at least one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA.
 - e. An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-2-8). Evidence includes:
 1. INS Form I-668 (Employment Authorization Card) annotated “271a.12(a)(10).”
 2. INS Form I-766 (Employment Authorization Document) annotated “A10.”
 3. Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.
 - f. An alien who is granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980. Evidence includes:
 1. INS Form I-94 with stamp showing admission under Section 203(a)(7) of the INA.
 2. INS Form I-668 (Employment Authorization Card) annotated “274a.12(a)(3).”
 3. INS Form I-776 (Employment Authorization Document) annotated “A3.”
 - g. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980). Evidence includes:
 1. INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6.
 2. Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with code CU6 or CU7.
 3. INS Form I-94 with stamp showing parole as “Cuban/Haitian Entrant” under Section 212(d)(5) of the INA.
 - h. An alien paroled into the United States for less than one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 showing this status.

i. An alien who has been declared a battered alien. Evidence includes INS petition and supporting documentation.

j. Any other documentation acceptable under the INA.

193—4.4(252J,272D,546) Social security number disclosure.

4.4(1) An individual applying for a license from a professional licensing board will disclose the individual's social security number on the application form unless:

a. The applicant demonstrates to the satisfaction of the board that the applicant does not possess and is not eligible for a social security number, or

b. The applicant demonstrates or attests that the applicant is in the process of applying for a social security number and will provide such number within 60 days of the date on which the applicant submits the application to the board. The license of an applicant who is licensed pursuant to this subrule may be revoked for failure to provide a valid social security number within 60 days of the date on which the application was filed.

4.4(2) An applicant who does not possess a social security number and is not eligible for a social security number will need to demonstrate lawful presence in the United States, if applicable, and provide government-issued photo identification as needed to verify identity. If circumstances change and the applicant or licensee later attains a social security number, the applicant or licensee will disclose the social security number to the board within 30 days of the date on which the social security number is issued.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	25
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	17
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	5	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 5 outlines a uniform process for the public, applicants, and licensees to petition a board for a waiver to administrative rule, which would suspend in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public, licensees and applicants should have a mechanism to petition the board for a waiver from administrative rule. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193-5: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	17
Proposed word count reduction after repeal and/or re-promulgation	2,087
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	41

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	2
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides the public and licensees with information about the boards' investigatory subpoena authority and procedures. The public knows that the board can subpoenas to investigate alleged of the boards' rules. The Board has the ability to investigate, and if necessary, seek discipline against the licensee ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

Yes, these administrative rules allow the boards' the authority to issue investigatory subpoenas.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Licensees and those who may be practicing without a license are responsible for costs associated with disciplinary actions, including responding to subpoenas.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the professions as directed by Iowa Code staff play a critical role.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The boards have not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

6.1 removes redundant language.
6.2 removes unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 6
INVESTIGATORY SUBPOENAS

193—6.1(17A,272C,542,542B,543B,543D,544A,544B,544C) Investigatory subpoena authority. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), professional licensing boards, as defined in IAC 191-1, have the authority to issue subpoenas to compel the production of professional records, books, papers, correspondence and other records which are deemed necessary as evidence in connection with the investigation of a licensee disciplinary proceeding, or otherwise necessary for the board to determine whether to commence a contested case. When such an investigation involves licensee discipline, the board may subpoena such evidence whether or not privileged or confidential under law. To ensure consistency in procedure, all boards will issue investigatory subpoenas according to the uniform procedures set forth in rule 193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C). Given the range of investigative options otherwise utilized by each board, additional detail on investigative procedures is provided separately in each board's individual rules.

193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C) Investigatory subpoena procedures.

6.2(1) The board's executive officer or designee may, upon the written request of a board investigator or on the officer's own initiative, subpoena books, papers, records, and other real evidence which the officer determines are necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions need to be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. The patient was notified and an attempt was made to secure an authorization from the patient for release of the records at issue.

6.2(2) A written request for a subpoena or the executive officer's written memorandum in support of the issuance of a subpoena contains the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of the reasons that the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 6.2(1) have been satisfied.

6.2(3) Each subpoena contains the following:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production, or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena needs to be filed;
- e. The signature, address and telephone number of the executive officer or designee;
- f. The date of issuance;
- g. A return of service.

6.2(4) Any person who is aggrieved or adversely affected by compliance with the subpoena who desires to challenge the subpoena needs to file a motion with the board to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion describes the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

6.2(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

6.2(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling needs to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions provided that all of the time frames are reduced by one-half.

6.2(7) If the person contesting the subpoena is not the person under investigation, the board’s decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board’s decision is not final for purposes of judicial review until either (1) the person is notified that the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

These rules are intended to implement Iowa Code chapters 17A, 272C, 542, 542B, 543B, 543D, 544A, 544B, and 544C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	7
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	August 29, 2023	Total Rule Count:	42
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A.103, 17A, 272C
Contact Name:	Lori SchraderBachar	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides the public and licensees with information about the boards' contested cases processes that must be followed. The public knows that the board can discipline bad actors and license holders, applicants, and others have the right to a contested case. subpoenas to investigate alleged of the boards' rules. Contested cases help ensure that the public is protected and outlines due process for alleged bad actors. Of the 429 complaints opened in PLB last year, there were approximately 145 contested cases.

Is the benefit being achieved? Please provide evidence.

Yes, these administrative rules allow the boards' the contested case process.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Licensees, applicants and those who may be practicing without a license are responsible for costs associated with contested case, included a \$75 hearing fee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, board member costs, ALJ costs and the cost of a court reporter. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings. Costs for the ALJs and court reporter vary.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The alternative to providing rules and directives on contested case hearings would leave too much discretion to the boards and could create a risk of harm to the public. Additionally, licensees would not

have a procedure to contest the allegations against them in an adversarial fashion.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, unneeded language was removed throughout the chapter.

RULES PROPOSED FOR REPEAL (list rule number[s]):

7.43
7.44
7.45

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 7
CONTESTED CASES

193—7.1(17A,542,542B,543B,543D,544A,544B,544C) Definitions. Except where otherwise specifically defined by law:

“*Board*” includes the professional licensing boards as defined in IAC 191-1.

“*Contested case*” means any adversary proceeding before a board to determine whether disciplinary action should be taken against a licensee under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C; an adversary proceeding against a nonlicensee pursuant to Iowa Code section 542.14, 542B.27, 543B.34, 543D.21, or 544A.15; or any other proceeding designated a contested case by any provision of law, including but not limited to adversary proceedings involving license applicants and the reinstatement of a suspended, revoked or voluntarily surrendered license.

“*Issuance*” means the date of mailing of a decision or order, or date of delivery if service is by other means unless another date is specified by rule or in the order.

“*License*” means a license, registration, certificate, permit or other form of practice permission required or authorized by Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“*Party*” means the state, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

“*Presiding officer*” means the board and, when applicable, a panel of board members or an administrative law judge assigned to render a proposed decision in a nondisciplinary contested case.

“*Probable cause*” means a reasonable ground for belief in the existence of facts which would support a specified proceeding under applicable law and rules.

“*Quorum*” means a majority of the members of the board. Action may generally be taken upon a majority vote of board members present at a meeting who are not disqualified, although discipline may only be imposed by a majority vote of the members of the board who are not disqualified and, for the engineering and land surveying examining board, only upon an affirmative vote of at least five members of the board.

193—7.2(17A,542,542B,543B,543D,544A,544B,544C,546) Scope and applicability of the Iowa Rules of Civil Procedure. This chapter applies to contested cases conducted by all boards in the bureau. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the board may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

193—7.3(17A,272C) Commencement of a contested case and probable cause. A contested case in a disciplinary proceeding is commenced by the filing and service of a statement of charges and notice of hearing. A contested case in a nondisciplinary proceeding is commenced by the filing and service of a notice of hearing. A contested case may only be commenced by the board upon a finding of probable cause to do so by a quorum of the board.

193—7.4(17A,272C) Informal settlement. The board, board staff or a board committee may attempt to informally settle a disciplinary case before filing a statement of charges and notice of hearing. If the board and the licensee agree to a settlement of the case, a statement of charges ~~shall~~ will be filed simultaneously with a consent order. The statement of charges and consent order may be separate documents or may be combined in one document. By electing to sign a consent order, the licensee waives all rights to a hearing and all attendant rights. The consent order has the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C). Matters not involving licensee discipline which may culminate in a contested case may also be settled through consent order. Procedures governing settlement after notice of hearing is served are described in rule 193—7.42(546,272C).

193—7.5(17A) Statement of charges. The statement of charges sets forth the acts or omissions with which the respondent is charged including the statute(s) and rule(s) which are alleged to have been violated and will be in sufficient detail to enable the preparation of the respondent's defense. The statement of charges will be incorporated within or attached to the notice of hearing. The statement of charges and notice of hearing are public records open for public inspection under Iowa Code chapter 22.

193—7.6(17A,272C) Notice of hearing.

7.6(1) *Contents of notice of hearing.* Unless the hearing is waived, all contested cases will commence with the service of a notice of hearing fixing the time and place for hearing. The notice, including any incorporated or attached statement of charges, will contain those items specified in Iowa Code section 17A.12(2) and, if applicable, Iowa Code section 17A.18(3), and the following:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of the statutes and rules involved;
4. A short and plain statement of the matters asserted;
5. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the respondent's counsel where known;
6. Reference to the procedural rules governing conduct of the contested case proceeding;
7. Reference to the procedural rules governing informal settlement after charges are filed;
8. Identification of the board or a panel of board members as the presiding officer, or statement that the presiding officer will be an administrative law judge from the department of inspections and appeals;
9. If applicable, notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11 and rule 193—7.10(17A,272C), that the presiding officer be an administrative law judge from the department of inspections and appeals; and
10. A statement requiring or authorizing the respondent to submit an answer of the type specified in rule 193—7.9(17A,272C) within 20 days after service of the notice of hearing.
11. If applicable, notification of the licensee's right to request a closed hearing in a licensee disciplinary

proceeding.

12. Information on who to contact if, because of a disability, auxiliary aids or services are needed for a party to participate in the matter.

13. If applicable, the date, time, and manner of conduct of a prehearing conference under rule 193—7.21(17A,272C).

14. The mailing address and e-mail address for filing with the board and notice of the option of e-mail service as provided in subrule 7.17(6).

7.6(2) *Service of notice of hearing.* Service of notice of hearing on a licensee to begin a contested case which may affect the licensee's continued licensure, such as a licensee disciplinary case or challenge to the renewal of a license, will be made by personal service as in civil actions, by restricted certified mail, return receipt requested, or by the acceptance of service by the licensee or the licensee's duly authorized legal representative. Service of the notice of hearing to begin all other contested cases may additionally be made by certified mail, return receipt requested.

193—7.7(13,272C) Legal representation.

7.7(1) Every statement of charges and notice of hearing prepared by the board will be reviewed and approved by the office of the attorney general, which is responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but represents the public interest.

7.7(2) The respondent or applicant may be represented by an attorney. The attorney will file an appearance in the contested case. If the attorney is not licensed to practice law in Iowa, the attorney will comply with Iowa Court Rule 31.14. Business entities may be represented in a contested case by a nonlawyer partner, officer, director, shareholder, member, director, or other owner or manager.

193—7.8(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding will file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

The request for a contested case proceeding will state the name and address of the requester; identify the specific disputed board action; describe issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved. If the board grants the request, the board will issue a notice of hearing. If the board denies the request, the board will issue a written order specifying the basis for the denial.

193—7.9(17A,272C) Form of answer.

7.9(1) Unless otherwise provided in the notice of hearing, the answer will contain the following information:

7.9(2) The answer may include any additional facts or information which the respondent deems relevant to the issues and which may be of assistance in the ultimate determination of the case, including explanations, remarks or statements of mitigating circumstances.

193—7.10(17A,272C) Presiding officer.

7.10(1) The presiding officer in all licensee disciplinary contested cases will be the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code subsections 272C.6(1) and (2). When board members act as presiding officer, they will conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. As provided in subrule 7.10(4), the board may be assisted by an administrative law judge when the board acts as presiding officer.

7.10(2) In cases which do not pertain to licensee discipline, the board may act as presiding officer or may notify the parties that an administrative law judge will act as presiding officer at hearing and issue a proposed decision. The use of an administrative law judge as presiding officer is only an option in cases which do not pertain to licensee discipline because only the board may conduct licensee discipline hearings pursuant to Iowa

Code section 272C.6. Any party to a nondisciplinary case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals needs to file a written request within 20 days after service of a notice of hearing which identifies the presiding officer as the board. The board may deny the request only upon a finding that one or more of the following apply:

- a. Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c. The case involves a disciplinary hearing to be held by the board pursuant to Iowa Code section 272C.6.
- d. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f. Funds are unavailable to pay the costs of an administrative law judge and an interboard appeal.
- g. The request was not timely filed.
- h. The request is not consistent with a specified statute.

7.10(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is granted, the administrative law judge assigned to act as presiding officer and issue a proposed decision in a nondisciplinary contested case will have a J.D. degree unless waived by the board.

7.10(4) The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

7.10(5) All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 193—7.31(17A) and 193—7.32(17A). A party needs to timely seek intra-agency appeal of prehearing rulings or proposed decisions in order to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

7.10(6) Unless otherwise provided by law, board members—have the powers of and comply with the provisions of this chapter which apply to presiding officers when reviewing a proposed decision of a panel of the board or an administrative law judge.

193—7.11(17A) Time requirements.

7.11(1) Time will be computed as provided in Iowa Code subsection 4.1(34).

7.11(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

193—7.12(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

193—7.13(17A,272C) Telephone and electronic proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties,

but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties will disclose at or before the prehearing conference if any witness will be testifying by telephone or other electronic means. Objections, if any, will be filed with the board and served on all parties at least three business days in advance of hearing.

193—7.14(17A) Disqualification.

7.14(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated, in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

7.14(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrule 7.28(9).

7.14(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit and provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

7.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.14(1), the party will file a motion supported by an affidavit pursuant to Iowa Code sections 17A.11(3) and 17A.17(7). The motion needs to be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

7.14(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but needs to establish the grounds by the introduction of evidence into the record.

7.14(6) A motion to disqualify a board member or other person will first be directed to the affected board member or other person for determination. If the board member or other person determines that disqualification is appropriate, the board member or other person will withdraw from further participation in the case. If the board member or other person determines that withdrawal is not required, the presiding officer will promptly review that determination, provided that, if the person at issue is an administrative law judge, the review will be by the board. If the presiding officer determines that disqualification is appropriate, the board member or

other person will withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer will enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 193—7.31(17A), if applicable, and seek a stay under rule 193—7.34(17A).

193—7.15(17A) Consolidation—severance.

7.15(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.15(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

193—7.16(17A) Amendments. Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

193—7.17(17A) Service and filing of pleadings and other papers.

7.17(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with their filing. Except for the original notice of hearing and statement of charges, and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties. A notice of hearing and statement of charges will be served by the board as provided in subrule 7.6(2). Once a specific administrative law judge has been assigned to a case, copies of all prehearing motions will also be served on the administrative law judge.

7.17(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

7.17(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding will be filed with the board. All pleadings, motions, documents or other papers that are required to be served upon a party will be filed simultaneously with the board.

7.17(4) *Filing—how and when made.* Except where otherwise provided by law, a document is deemed filed at the time it is received by the board. Parties may file documents with the board by hand delivery or mail or by electronic transmission to the e-mail address specified in the notice of hearing. If a document required to be filed within a prescribed period or on or before a particular date is received by the board after such period or such date, the document will be deemed filed on the date it is mailed by first-class mail or state interoffice mail, so long as there is proof of mailing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the board. The board will not provide a mailed file-stamped copy of documents filed by e-mail or other approved electronic means.

7.17(5) *Proof of mailing.* Proof of mailing includes either a legible United States Postal Service nonmetered postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (insert board title) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

7.17(6) *Electronic service.* The presiding officer may by order or a party or a party's attorney may by consent permit service of particular documents by e-mail or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, electronic transmission will not satisfy service requirements, but may be used to supplement service when rapid notice is desirable. Consent to electronic service by a party or a party's attorney will be in writing, may be accomplished through electronic transmission to the board and other parties, and will specify the e-mail address for such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns that the attempted service did not reach the party to be served.

193—7.18(17A) Discovery.

7.18(1) The scope of discovery described in Iowa Rule of Civil Procedure 1.503 applies to contested case proceedings.

7.18(2) The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions applies to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case will be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 applies to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 applies to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 applies to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission applies in a contested case proceeding.

7.18(3) The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to a contested case proceeding. However, upon application by a party, the board may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceeding or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the board's obligation to supply the information described in Iowa Code section 17A.13(2) upon request while a contested case is pending and the mutual exchange of information required in a prehearing conference under rule 193—7.22(17A).

7.18(4) Iowa Rule of Civil Procedure 1.508 applies to discovery of any experts identified by a party to a contested case proceeding.

7.18(5) Discovery will be served on all parties to the contested case proceeding, but not be filed with the board.

7.18(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the board relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

7.18(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

193—7.19(17A,272C) Issuance of subpoenas in a contested case.

7.19(1) Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas will be issued by the executive officer or designee upon a written request that complies with this rule. In the case of a request for a subpoena of mental health records, the request needs to confirm compliance with the following conditions prior to the issuance of the subpoena:

- a.* The nature of the issues in the case reasonably justifies the issuance of the requested subpoena;
- b.* Adequate safeguards have been established to prevent unauthorized disclosure;
- c.* An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d.* An attempt was made to notify the patient and to secure an authorization from the patient for the release of the records at issue.

7.19(2) A request for a subpoena includes the following information, as applicable:

- a.* The name, address, e-mail address, and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena is directed;
- c.* The date, time, and location at which the person is commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 7.19(1) have been satisfied.

7.19(3) Each subpoena contains, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena needs to be filed;
- i.* The signature, address and telephone number of the executive officer or designee;
- j.* The date of issuance;
- k.* A return of service.

7.19(4) The executive officer or designee will mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena. If a subpoena is requested to compel testimony or documents for rebuttal or impeachment at hearing, the person requesting the subpoena will so state in the request and may ask that copies of the subpoena not be mailed to the parties in the contested case.

7.19(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, needs to file with the board a motion to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion will describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for

compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

7.19(6) Upon receipt of a timely motion to quash or modify a subpoena or motion to compel production, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny or grant the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

7.19(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling needs to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions set forth in rules 193—7.31(17A) and 193—7.32(17A), provided that all of the time frames are reduced by one-half.

7.19(8) If the person contesting the subpoena is not a party to the contested case proceeding, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case proceeding, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

193—7.20(17A) Motions.

7.20(1) No technical form for motions is required. However, prehearing motions need to be in writing, state the grounds for relief, and state the relief sought.

7.20(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

7.20(3) The presiding officer may schedule oral argument on any motion. If the board requests that an administrative law judge issue a ruling on a prehearing motion, the ruling is subject to interlocutory appeal pursuant to rule 193—7.31(17A).

7.20(4) Motions pertaining to the hearing, except motions for summary judgment, need to be filed and served at least seven days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

7.20(5) Motions for summary judgment will comply with the requirements of Iowa Rule of Civil Procedure 1.981 and are subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

7.20(6) Motions for summary judgment need to be filed and served at least 20 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion needs to file and serve a resistance within 10 days from the date a copy of the motion was served unless otherwise ordered by the presiding officer. The time fixed for hearing or nonoral submission will be not less than 15 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 193—7.33(17A) and appeal pursuant to rule 193—7.32(17A).

193—7.21(17A,272C) Prehearing conference and disclosures.

7.21(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion will be filed not less than ten days prior to the hearing date. A prehearing conference will be scheduled not less than five business days prior to the hearing date. The board will set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference will be given by the board to all parties. For good cause the presiding officer may permit variances from this rule.

7.21(2) Each party will disclose at or prior to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments need to be served on all parties.

7.21(3) In addition to the requirements of subrule 7.21(2), the parties at a prehearing conference may:

- a.* Enter into stipulations of law or fact;
- b.* Enter into stipulations on the admissibility of exhibits;
- c.* Identify matters which the parties intend to request be officially noticed;
- d.* Enter into stipulations for waiver of any provision of law; and
- e.* Consider any additional matters which will expedite the hearing.

7.21(4) Prehearing conferences will be conducted by telephone unless otherwise ordered. Parties will exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference will be conducted by an administrative law judge.

7.21(5) The parties will exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 7.26(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

193—7.22(17A) Continuances. Unless otherwise provided, applications for continuances will be made to the presiding officer.

7.22(1) A written application for a continuance will:

- a.* Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;
- b.* State the specific reasons for the request; and
- c.* Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance needs to confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

7.22(2) In determining whether to grant a continuance, the presiding officer may require documentation of any grounds for continuance and may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors.

7.22(3) The board's executive officer or an administrative law judge may enter an order granting an uncontested application for a continuance. Upon consultation with the board chair or chair's designee, the board's executive officer or an administrative law judge may deny an uncontested application for a continuance, or rule on a contested application for continuance.

193—7.23(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior

to the hearing upon written notice filed with the board and served on all parties. Unless otherwise ordered by the board, a withdrawal will be with prejudice.

193—7.24(17A) Intervention.

7.24(1) *Motion*. A motion for leave to intervene in a contested case proceeding will state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention will be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

7.24(2) *When filed*. Motion for leave to intervene will be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene will be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion will contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

7.24(3) *Grounds for intervention*. The movant will demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

7.24(4) *Effect of intervention*. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

193—7.25(17A,272C) Hearings. The presiding officer will be in control of the proceedings and have the authority to administer oaths and to admit or exclude testimony or other evidence and rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions. Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney at the party's expense.

7.25(1) *Examination of witnesses*. All witnesses will be sworn or affirmed by the presiding officer or the court reporter, and be subject to cross-examination. Board members and the administrative law judge have the right to examine witnesses at any stage of a witness's testimony. The presiding officer may limit questioning in a manner consistent with law.

7.25(2) *Public hearing*. The hearing will be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public. At the request of a party or on the presiding officer's own motion, the presiding officer may issue a protective order to protect all or a part of a record or information which is privileged or confidential by law.

7.25(3) *Record of proceedings*. Oral proceedings will be recorded either by mechanical or electronic means or by certified shorthand reporters. Oral proceedings or any part thereof will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription will be filed with and maintained by the board for at least five years from the date of decision.

7.25(4) *Order of proceedings*. Before testimony is presented, the record will show the identities of any board members present, the identity of the administrative law judge, the identities of the primary parties and their representatives, and the fact that all testimony is being recorded. In contested cases initiated by the board, such as licensee discipline, hearings will generally be conducted in the following order, subject to modification at the discretion of the board:

a. The presiding officer or designated person may read a summary of the charges and answers thereto and

other responsive pleadings filed by the respondent prior to the hearing.

b. The assistant attorney general representing the state interest before the board will make a brief opening statement which may include a summary of charges and the names of any witnesses and documents to support such charges.

c. Each respondent will be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent(s).

d. The presentation of evidence on behalf of the state.

e. The presentation of evidence on behalf of the respondent(s).

f. Rebuttal evidence on behalf of the state, if any.

g. Rebuttal evidence on behalf of the respondent(s), if any.

h. Closing arguments first on behalf of the state, then on behalf of the respondent(s), and then on behalf of the state, if any.

The order of proceedings will be tailored to the nature of the contested case. In license reinstatement hearings, for example, the respondent will generally present evidence first because the respondent is obligated to present evidence in support of the respondent's application for reinstatement pursuant to rule 193—7.38(17A,272C). In license denial hearings, the state will generally first establish the basis for the board's denial of licensure, but thereafter the applicant has the burden of establishing the conditions for licensure pursuant to rule 193—7.39(546,272C).

7.25(5) *Decorum.* The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

7.25(6) *Immunity.* The presiding officer will have authority to grant immunity from disciplinary action to a witness, as provided by Iowa Code section 272C.6(3), but only upon the unanimous vote of all members of the board hearing the case. The official record of the hearing will include the reasons for granting the immunity.

7.25(7) *Sequestering witnesses.* The presiding officer, on the officer's own motion or upon the request of a party, may sequester witnesses.

7.25(8) *Witness representation.* Witnesses are entitled to be represented by an attorney at their own expense. In a closed hearing, the attorney may be present only when the client testifies. The attorney may assert legal privileges personal to the client, but may not make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

7.25(9) *Depositions.* Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

7.25(10) *Witness fees.* The parties in a contested case are responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses is determined in accordance with Iowa Code section 622.69. The costs for expert witnesses is determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

193—7.26(17A) Evidence.

7.26(1) The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.26(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.26(3) Evidence in the proceeding is confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

7.26(4) The party seeking admission of an exhibit will provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents will be provided to opposing

parties. Copies will also be furnished to members of the board. All exhibits admitted into evidence will be appropriately marked and be made part of the record. The state's exhibits will be marked numerically, and the applicant's or respondent's exhibits will be marked alphabetically.

7.26(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection needs to be timely and be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.26(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

7.26(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence which may or would be inadmissible in a jury trial.

193—7.27(17A) Default.

7.27(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

7.27(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

7.27(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 193—7.32(17A). A motion to vacate will state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated will be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) need to be attached to the motion.

7.27(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

7.27(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties have ten days to respond to a motion to vacate. Adverse parties are allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

7.27(6) "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

7.27(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 193—7.31(17A).

7.27(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

7.27(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues.

7.27(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 193—7.34(17A).

193—7.28(17A) Ex parte communication.

7.28(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 7.14(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

7.28(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

7.28(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

7.28(4) To avoid prohibited ex parte communications, notice needs to be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 193—7.17(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

7.28(5) Persons who jointly act as presiding officers in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

7.28(6) The executive officer or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the executive officer or other persons are not disqualified from participating in the making of a proposed or final decision under any provision of law and the executive officer or other persons comply with subrule 7.28(1).

7.28(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines pursuant to rule 193—7.22(17A).

7.28(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case will initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication will be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

7.28(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer will disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

7.28(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel will be reported to the administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

193—7.29(17A) Recording costs. Upon request, the board will provide a copy of the whole record or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

193—7.30(17A,272C) Final decisions, publication and client notification.

7.30(1) *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. The final decision of the board will be filed with the executive officer. A copy of the final decision and order will immediately be sent by certified mail, return receipt requested, to the licensee's or other respondent's last-known U.S. Postal Service address or may be served as in the manner of original notices. A party's attorney may waive formal service and accept service in writing for the party. Copies will be mailed by interoffice mail or first-class mail to the prosecutor and counsel of record.

7.30(2) *Publication of decisions.* Final decisions of the board, including consent agreements and consent orders, are public documents, are available to the public and may be disseminated as provided in Iowa Code chapter 22 by the board or others. Final decisions relating to licensee discipline will be published in the professional licensing and regulation bureau's newsletter, may be published on the bureau's Web site, and may be transmitted to the appropriate professional association(s), national associations, other states, and news media, or otherwise disseminated. The board may, in its discretion, issue a formal press release.

7.30(3) *Notification of clients.* Within 15 days (or such other time period specifically ordered by the board) of the licensee's receipt of a final decision of the board, whether entered by consent or following hearing, which suspends or revokes a license or accepts a voluntary surrender of a license to resolve a disciplinary case, the licensee will notify in writing all current clients of the fact that the license has been suspended, revoked or voluntarily surrendered. Such notice will advise clients to obtain alternative professional services. Within 30 days of receipt of the board's final order, the licensee will file with the board copies of the notices sent. Compliance with this requirement will be a condition for an application for reinstatement.

193—7.31(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge, such as a ruling on a motion to quash a subpoena or other prehearing motion. In determining whether to do so, the board will weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of the interlocutory order at the time of the issuance of a final decision would provide an adequate remedy. Any request for interlocutory review will need to be filed within 14 days of issuance of the challenged order, but no later than the date for compliance with the order or the date of hearing, whichever is earlier.

193—7.32(17A) Appeals and review.

7.32(1) *Proposed decision.* Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. All licensee disciplinary decisions are obligated to be issued by the board. A proposed disciplinary decision issued by a panel of the board needs to be acted upon by the full board in order to become a final decision. In nondisciplinary cases, a proposed decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

7.32(2) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

7.32(3) *Review.* The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

7.32(4) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal needs to be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order which is being appealed;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

7.32(5) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence needs to be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.32(6) *Scheduling.* The board will issue a schedule for consideration of the appeal.

7.32(7) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

7.32(8) *Record.* The record on appeal or review will be the entire record made before the hearing panel or administrative law judge.

193—7.33(17A) Applications for rehearing.

7.33(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

7.33(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application will state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.33(3), the applicant requests an opportunity to submit additional evidence.

7.33(3) *Additional evidence.* A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceeding, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding.

7.33(4) *Time of filing.* The application will be filed with the board within 20 days after issuance of the final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order. The application for rehearing is deemed filed on the date it is received by the board unless the provisions of subrule 7.17(4) apply.

7.33(5) *Notice to other parties.* A copy of the application will be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board will serve copies of the application on all parties.

7.33(6) *Disposition.* An application for rehearing will be deemed denied unless the board grants the application within 20 days after its filing. An order granting or denying an application for rehearing is deemed issued on the date it is filed with the board.

7.33(7) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The

board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

193—7.34(17A) Stays of board actions.

7.34(1) *When available.*

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition will be filed with the notice of appeal and will state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the administrative law judge to do so.

b. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition will state the reasons justifying a stay or other temporary remedy. Seeking a stay from the board is required to exhaust administrative remedies before a stay may be sought from the district court.

7.34(2) *When granted.* In determining whether to grant a stay, the presiding officer or board will consider the factors listed in Iowa Code section 17A.19(5)“c.”

7.34(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

193—7.35(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

193—7.36(17A) Emergency adjudicative proceedings.

7.36(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare, and consistent with the United States Constitution and Iowa Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

7.36(2) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board’s decision to take immediate action.

b. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

(3) Certified mail to the last address on file with the board;

(4) First-class mail to the last address on file with the board; or

(5) Electronic service. Fax or e-mail notification may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax or e-mail and has provided a fax number or e-mail address for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

7.36(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

7.36(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

193—7.37(17A,272C) Judicial review. Judicial review of the board’s decision may be sought in accordance with the terms of Iowa Code chapter 17A.

7.37(1) Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition needs to be filed with the district court within 30 days after the issuance of the board’s final decision. The board’s final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order.

7.37(2) If a party does file a timely application for rehearing, a judicial review petition needs to be filed with the district court within 30 days after the application for rehearing is denied or deemed denied. An application for rehearing is denied or deemed denied as provided in subrule 7.33(6).

193—7.38(17A,272C) Reinstatement.

7.38(1) The term “reinstatement” as used in this rule will include both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license. Reinstating a license to active status under this rule is a two-step process:

a. First, the board needs to determine whether the suspended, revoked, or surrendered license may be reinstated under the terms of the order revoking or suspending the license or accepting the surrender of the license and under the two-part test described in subrule 7.38(5).

b. Second, if the board grants the application to reinstate, the licensee needs to complete and submit an application to demonstrate satisfaction of all administrative preconditions for reinstatement of the license to active status, including verification of completion of all continuing education and payment of reinstatement and renewal fees.

7.38(2) Any person whose license has been revoked or suspended by the board, or who voluntarily surrendered a license in a disciplinary proceeding, may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension, or order accepting the voluntary surrender.

7.38(3) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until at least one year has elapsed from the date of the order or the date the board accepted the voluntary surrender of a license.

7.38(4) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the respondent’s license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including the matters preliminary and ancillary thereto, will be subject to the same rules of procedure as other cases before the board. In addition, the board may grant an applicant’s request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant

requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

7.38(5) An application for reinstatement will allege facts which, if established, will be sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with subrule 7.30(3) needs to also be established. The burden of proof to establish such facts will be on the respondent. An order of reinstatement may include such conditions as the board deems reasonable under the circumstances. The board may grant the application without hearing, but may not deny the application in whole or part without setting the matter for hearing or providing the applicant the opportunity to request a contested case hearing if aggrieved by a term of the reinstatement order.

7.38(6) An order of reinstatement will be based upon a decision which incorporates findings of fact and conclusions of law and needs to be based upon the affirmative vote of not fewer than a majority of the board. This order will be published as provided for in subrule 7.30(2).

193—7.39(546,272C) Hearing on license denial. If the board denies an application for an initial, reciprocal or comity license, the executive officer will send written notice to the applicant by regular first-class mail identifying the factual and legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 193—7.40(546,272C) will apply.

7.39(1) An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial needs to request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for a hearing needs to be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing will specify the factual or legal errors that the applicant contends were made by the board, needs to identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board will promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

7.39(2) The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 193—7.10(17A,272C). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 193—7.32(17A).

7.39(3) License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party will have the burden of establishing the affirmative of matters asserted, the applicant will have the ultimate burden of persuasion as to the applicant's qualification for licensure.

7.39(4) The board, after a hearing on license denial, may grant or deny the application for licensure. If denied, the board will state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

7.39(5) The notice of license denial, request for hearing, notice of hearing, record at hearing and order are open records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations and other persons or entities.

7.39(6) Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

193—7.40(546,272C) Denial of application to renew license. If the board denies a timely and sufficient application to renew a license, a notice of hearing will be issued to commence a contested case proceeding.

7.40(1) Hearings on denial of an application to renew a license will be conducted according to the procedural rules applicable to contested cases. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 7.39(2) and 7.39(4) to 7.39(6) will generally apply,

although license denial hearings which are in the nature of disciplinary actions will be subject to all laws and rules applicable to such hearings.

7.40(2) Pursuant to Iowa Code section 17A.18(2), an existing license will not terminate or expire if the licensee has made timely and sufficient application for renewal until the last day for seeking judicial review of the board's final order denying the application, or a later date fixed by order of the board or the reviewing court.

7.40(3) Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application will be:

- a. Received by the board in paper or electronic form, or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;
- b. Signed by the licensee if submitted in paper form or certified as accurate if submitted electronically;
- c. Fully completed; and
- d. Accompanied with the proper fee. The fee will be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

7.40(4) The administrative processing of an application to renew an existing license will not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

193—7.41(546,272C) Recovery of hearing fees and expenses. The board may assess the licensee certain fees and expenses relating to a disciplinary hearing only if the board finds that the licensee has violated a statute or rule enforced by the board. Payment will be made directly to the professional licensing and regulation bureau of the banking division of the department of commerce pursuant to rule 193—2.1(272C).

7.41(1) The board may assess the following costs under this rule:

- a. For conducting a disciplinary hearing, an amount not to exceed \$75.
- b. All applicable costs involved in the transcript of the hearing or other proceedings in the contested case including, but not limited to, the services of the court reporter at the hearing, transcription, duplication, and postage or delivery costs. In the event of an appeal to the full board from a proposed panel decision, the appealing party will timely request and pay for the transcript necessary for use in the board appeal process. The board may assess the transcript cost against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7), as the board deems equitable in the circumstances.
- c. All normally accepted witness expenses and fees for a hearing or the taking of depositions, as incurred by the state of Iowa. These costs will include, but not be limited to, the cost of an expert witness and the cost involved in telephone testimony. The costs for lay witnesses will be guided by Iowa Code section 622.69. The cost for expert witnesses will be guided by Iowa Code section 622.72. Mileage costs will not be governed by Iowa Code section 625.2. The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to any witness who is subpoenaed by either party to testify at hearing. Additionally, the board may assess travel and lodging expenses for witnesses at a rate not to exceed the rate applicable to state employees on the date the expense is incurred.
- d. All normally applicable costs incurred by the state of Iowa involved in depositions including, but not limited to, the services of the court reporter who records the deposition, transcription, duplication, and postage or delivery costs. When a deposition of an expert witness is taken, the deposition cost will include a reasonable expert witness fee. The expert witness fee will not exceed the expert's customary hourly or daily rate, and will include the time spent in travel to and from the deposition but exclude time spent in preparation for the deposition.

7.41(2) When imposed in the board's discretion, hearing fees (not exceeding \$75) will be assessed in the final disciplinary order. Costs and expenses assessed pursuant to this rule will be calculated and, when possible, entered into the final disciplinary order specifying the amount to be reimbursed and the time period in which the amount assessed needs to be paid by the licensee.

a. When it is impractical or not possible to include in the disciplinary order the exact amount of the assessment and time period in which to pay in a timely manner, or if the expenditures occur after the disciplinary order is issued, the board, by a majority vote of the members present, may assess through separate order the amount to be reimbursed and the time period in which payment is to be made by the licensee.

b. If the assessment and the time period are not included in the disciplinary order, the board will have to the end of the sixth month after the date the state of Iowa paid the expenditures to assess the licensee for such expenditure. In order to rely on this provision, however, the final disciplinary order needs to notify the licensee that fees and expenses will be assessed once known.

7.41(3) Any party may object to the fees, costs or expenses assessed by the board by filing a written objection within 20 days of the issuance of the final disciplinary decision, or within 10 days of any subsequent order establishing the amount of the assessment. A party's failure to timely object will be deemed a failure to exhaust administrative remedies. Orders which impose fees, costs or expenses will notify the licensee of the time frame in which objections need to be filed in order to exhaust administrative remedies.

7.41(4) Fees, costs, and expenses assessed by the board pursuant to this rule will be allocated to the expenditure category in which the disciplinary procedure of hearing was incurred. The fees, costs, and expenses will be considered repayment receipts as defined in Iowa Code section 8.2.

7.41(5) The failure to comply with payment of the assessed costs, fees, and expenses within the time specified by the board will constitute a violation of an order of the board, be grounds for discipline, and be considered prima facie evidence of a violation of Iowa Code section 272C.3(2) "*a.*" However, no action may be taken against the licensee without the opportunity for hearing as provided in this chapter.

193—7.42(546,272C) Settlement after notice of hearing.

7.42(1) Settlement negotiations after the notice of hearing is served may be initiated by the licensee or other respondent, the prosecuting assistant attorney general, the board's executive officer, or the board chair or chair's designee.

7.42(2) The board chair or chair's designee has authority to negotiate on behalf of the board but not have the authority to bind the board to particular terms of settlement.

7.42(3) The respondent is not obligated to participate in settlement negotiations. The respondent's initiation of or consent to settlement negotiation constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17 and rule 193—7.28(17A). Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chair or chair's designee, and the designated board member is not disqualified from participating in the adjudication of the contested case.

7.42(4) Unless designated to negotiate, no member of the board will be involved in settlement negotiation until a written consent order is submitted to the full board for approval. No informal settlement will be submitted to the full board unless it is in final written form executed by the respondent. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. If the board fails to approve the consent order, it will be of no force and effect to either party and not admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement which the respondent is free to accept or reject.

7.42(5) If the board and respondent agree to a consent order, the consent order will constitute the final decision of the board. By electing to resolve a contested case through consent order, the respondent waives all rights to a hearing and all attendant rights. A consent order in a licensee disciplinary case will have the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C).

These rules are intended to implement Iowa Code chapters 17A, 252J, 272C, 272D, 542, 542B, 543B, 543D, 544A, 544B, and 544C and Iowa Code sections 261.126, 261.127 and 546.10.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	246
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	260

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	3
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	8	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides information on the consequences of not payment child support or state debt when in is owed as it pertains to a professional license.

Is the benefit being achieved? Please provide evidence.

Yes, this provides information to the public, licensees, and their employers how nonpayment of child support or state debt can impact a professional license and procedure the boards take when notified there is an outstanding money owed.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Licensees must pay or make arrangements to pay the outstanding money owed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including sending notices to licensees about money owed that may impact their license. There is a cost to other agencies for their staff time to notify a DIAL board about the debt that is owed.

Do the costs justify the benefits achieved? Please explain.

Yes, because licensees should pay state debt and delinquent child support payments.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193-8: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1,121
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	34

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/28/2023	Total Rule Count:	4
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	9	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of Chapter 9 is provide directions to the public, applicants, and licensees to petition a board for rulemaking.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public should have a mechanism to propose new rules when necessary and be a part of the rule making process. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

103-9: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	681
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	13

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/28/2023	Total Rule Count:	12
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	10	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of Chapter 10 is provide directions to the public to petition for declaratory order from the boards.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefits.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with these rules.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because it provides the public the ability to petition a board for a declaratory order. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193-10: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	12
Proposed word count reduction after repeal and/or re-promulgation	1,830
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	31

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	1
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	11	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides the process for board members to gain authorization to sell goods or services to those who are subject to the regulatory authority of the board on which they serve.

Is the benefit being achieved? Please provide evidence.

Yes, this provides information to the public, licensees, and their employers about how to continue their livelihood while volunteering to serve on a board.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Licensees must provide a free application to the board for its consideration.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities for the seven professional licensing boards. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is need to support the boards' responsibilities.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Without this chapter, board members would not be able to sell goods and services to licensees and their livelihoods may be negatively impacted.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

11.1 removes outdated and unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 11
SALES AND LEASES OF GOODS AND SERVICES

193—11.1(68B) Selling or leasing of goods or services by members of the department of inspections, appeals, and licensing examining boards as defined in IAC 191-1. The board members cannot sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of inspections, appeals, and licensing except as authorized by this rule, and by the consent documents filed with the Iowa ethics and campaign disclosure board pursuant to Iowa Code section 68B.4 and the corresponding provisions of rule 351—6.11(68B).

11.1(1) *Conditions of consent for members.* Consent may be given by a majority of the members of the board upon a finding that the conditions required by Iowa Code section 68B.4, as described in 351 IAC 6.11(4), have been satisfied. The board may grant a blanket consent for sales and leases to classes of individuals, associations, or corporations when such blanket consent is consistent with 351 IAC 6.11(4) and the granting of single consents is impractical or impossible to determine.

11.1(2) *Authorized sales and leases.*

a. A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by any division within the department of inspections, appeals, and licensing, other than the board on which that official serves. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board.

b. A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by the licensing board or commission of which that person is a member if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. In the event a complaint is filed with the licensing board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case, as provided, for instance, in the code of administrative judicial conduct at 481 IAC 10.29(3) "b." Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board. The boards intend that the blanket consent be interpreted broadly to allow routine professional services offered directly to the general public and to licensees, such as continuing education instruction or peer review services. Such consent recognizes that those licensees most proficient and ethical in their professional careers may also be among those whose services are desirable to enrich the professional competence of

licensees. Interpreting the blanket consent broadly accordingly removes a possible disincentive to board membership.

c. Individual application and approval are not necessary for the sales and leases authorized by this rule and by the consents filed with the ethics and campaign disclosure board unless there are unique facts surrounding a particular sale or lease which would cause the sale or lease to affect the seller's or lessor's duties or functions, would give the buyer or lessee an advantage in dealing with the board, or would otherwise present a conflict of interest as defined in Iowa Code section 68B.2A or common law.

11.1(3) *Application for consent.* Prior to selling or leasing a good or service to an individual, association, or corporation subject to the regulatory authority of the department of inspections, appeals, and licensing, an official will obtain prior written consent, as provided in 351 IAC 6.11(3), unless the sale or lease is specifically allowed in subrule 11.1(2) and in the consents filed with the ethics and campaign disclosure board. The request for consent needs to be in writing and signed by the official requesting consent. The application needs to provide a clear statement of all relevant facts concerning the sale or lease. The application should identify the parties to the sale or lease and the amount of compensation. The application should also explain why the sale or lease should be allowed. All applications need to conform to the requirements of 351 IAC 6.11(3).

11.1(4) *Limitation of consent.* Consent will be in writing and be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this rule does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules. The board's ruling on each application, whether consent is conferred or denied or conditionally granted, will be filed with the ethics and campaign disclosure board pursuant to 351 IAC 6.11(7). An official who receives a denial or conditional consent may appeal the ruling to the ethics and campaign disclosure board as provided in 351 IAC 6.11(6).

This rule is intended to implement Iowa Code chapter 68B.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	0 (24 more words)
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/26/2023	Total Rule Count:	1
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	12	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules establishes the procedures for an impaired licensee review committee for license holders who may have an impairment that impacts their practice.

Is the benefit being achieved? Please provide evidence.

Yes, the pubic, license holders, and their employers are aware of the license review committee and terms of participation.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. The cost to the licencess is time and effort to comply with the the committee’s orders.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to provide administrative support and coordinating activities as well as a possible \$50 per diem for committee members. Staff salaries and per diems are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes.Staff is need to support the work of the committee. This also may assist license holders keep their licenses, while make sure the public is protected from potential wrongdoing.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The boards have not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

12.1 removes outdated and necessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 12

IMPAIRED LICENSEE REVIEW COMMITTEES

193—12.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1) “k,” all the professional licensing boards as defined in IAC 191-1 may establish an impaired licensee review committee.

12.1(1) *Definitions.* The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

“*Committee*” means the impaired licensee review committee.

“*Contract*” means the written document establishing the terms for participation in the impaired licensee program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“*Licensee*” means a person licensed under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

12.1(2) *Purpose.* The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments or who are referred to the committee by the board.

12.1(3) *Composition of the committee.* The chairperson of each board appoints the members of the committee for that board. The membership of the committee includes, but is not limited to:

- a. One licensee, registered under the applicable Iowa Code chapter regulated by the board;
- b. One public member of the board;
- c. One or more licensed professionals with expertise in substance abuse/addiction treatment programs or other applicable impairment.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of inspections, appeals, and licensing, if deemed in the best interest of the licensee or the public.

12.1(4) *Eligibility.* To be eligible for participation in the impaired licensee recovery program, a licensee

needs to meet all of the following criteria:

- a. The licensee needs to self-report an impairment or suspected impairment directly to the office of the board or be referred to the committee by the board;
- b. The licensee cannot have engaged in the unlawful diversion or distribution of controlled substances, or illegal substances;
- c. At the time of the self-report, the licensee cannot already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession, although the existence of such an order cannot prevent the board from making a referral when deemed in the best interest of the licensee and the public;
- d. The licensee has not caused harm or injury to a client;
- e. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;
- f. The licensee has provided truthful information and fully cooperated with the board or committee.

12.1(5) *Meetings*. The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

12.1(6) *Terms of participation*. A licensee will agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

12.1(7) *Noncompliance*. Failure to comply with the provisions of the agreement obligates the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

12.1(8) *Practice restrictions*. The committee may impose restrictions on the licensee's practice as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is obligated to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee will refer the licensee to the board for appropriate action.

12.1(9) *Limitations*. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee cannot relieve the board of any duties and cannot divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant is referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

12.1(10) *Confidentiality*. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program cannot be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	0 (1 additional word)
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	17

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/28/2023	Total Rule Count:	17
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	13	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The purpose of Chapter 13 is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices act.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

What are the costs incurred by the public to comply with the rule?

There is no cost to the public to comply with this rule. The requester of the public records may incur the actual agency expenses in searching for and supervising the examination and copying of requested records.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost to the agency to implement and enforce this rule is the cost to staff personnel to search for and supervise the examination and copying of the records. The agency may charge the requester of the records a fee.

Do the costs justify the benefits achieved? Please explain.

While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193-13: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	17
Proposed word count reduction after repeal and/or re-promulgation	6,528
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	62

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/27/2023	Total Rule Count:	3
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	14	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A.103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter establishes two additional paths to licensure that all the boards defined in 193.1 share that are outlined in Iowa Code 272.C . The public, licensees, and applicants benefit from the rule as it articulates additional paths to licensure.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the professions. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant to become licensed in one of the boards' professions. The applicant has to have at least one active license in good standing in another state or, if the licensee did not have to have a license in order to practice in a jurisdiction before moving to Iowa, the costs would include testing in Iowa. There is also the license fee as outlined the specific board's chapter.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the cost to license professions justifies the benefits achieved because it ensures that Iowans are protected.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The boards have not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Definitions remove outdated information.
14.1 remove outdated information.
Formerly 14.4, now 14.2 removes unneeded information.
Formerly 14.7, now 14.3 removes unneeded information.

RULES PROPOSED FOR REPEAL (list rule number[s]):

4 definitions
14.2
14.3
14.5
14.6

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 14
LICENSURE BY VERIFICATION OR WORK EXPERIENCE

193—14.1(272C) Definitions.

“*Board*” means an examining board or commission as defined in IAC 191-1.

“*Issuing jurisdiction*” means any state, commonwealth, municipal, the District of Columbia, or other insular territory of the United States.

“*License*” or “*licensure*” means any license, registration, certificate, or permit that may be granted by an examining board or commission as defined in IAC 191-1

193—14.2(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

14. 2 (1) *Eligibility*. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

14. 2 (2) *Board application*. The applicant needs to submit the following:

- a. A completed application for licensure by verification.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. A verification form completed by the licensing authority in the jurisdiction that issued the applicant’s license, verifying that the applicant’s license in that jurisdiction complies with the requirements of Iowa Code

section 272C.12. The completed verification form needs to be sent directly from the licensing authority to the board.

- e. A copy of the complete criminal record, if the applicant has a criminal history.
- f. A copy of relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- g. Copies of relevant laws setting forth the scope of practice in the other state.

14. 2 (3) *Applicants with prior discipline.* If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

14. 1 (4) *Applicants with pending licensing complaints or investigations.* If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

14. 2 (5) *Determination by board.* The board makes the determination of whether to issue a license under this rule based on information supplied by the applicant in the application and on such additional information as the board may acquire, including information or verification from other jurisdictions.

193—14.3(272C) Applicants with work experience in jurisdictions without licensure requirements.

14. 3 (1) *Work experience.* An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not need a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience needs to be within the four years preceding the date of application for initial licensure. The applicant needs to satisfy all other requirements, including passing any required examinations, to receive a license.

14. 3 (2) *Required documentation.* An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements carries the burden of providing all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency, which may include:
 - (1) Residential mortgage, lease, or rental agreement;
 - (2) Utility bill;
 - (3) Bank statement;
 - (4) Paycheck or pay stub;
 - (5) Property tax statement;
 - (6) A document issued by the federal or state government; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for licensure, which may include:
 - (1) A letter from the applicant's prior employer documenting the dates of employment;
 - (2) Paychecks or pay stubs;
 - (3) If self-employed, business documents filed with the secretary of state; or
 - (4) Any other board-approved evidence of sufficient work experience.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa, which includes:
 - (1) A written statement by the applicant detailing the scope of practice; and
 - (2) Business or marketing materials detailing the services provided.

These rules are intended to implement Iowa Code chapter 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1,439
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	31

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Professional Licensing and Regulation Bureau (Legacy) Inspections, Appeals, & Licensing	Date:	8/27/2023	Total Rule Count:	5
IAC #:	193 (Legacy)	Chapter/ SubChapter/ Rule(s):	15	Iowa Code Section Authorizing Rule:	546.3, and 546.10 (Legacy) 10A..103
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides the public, licensees, and applicants with information about how criminal convictions may impact an application for licensure and allows for a license predetermination.

Is the benefit being achieved? Please provide evidence.

The benefit of the rules is achieved as only qualified individuals are permitted to enter the professions. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public. Applicants may have a cost in obtaining records if they do not possess them. If a predetermination is sought, the applicant is charged a \$25 fee as allowed in statute.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the cost to license professions justifies the benefits achieved because it ensures that Iowans are protected.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The boards have not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

15.1 removes unneeded language.
15.2 removes unneeded language.
15.3 removes unneeded language.
15.4 removes unneeded language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 15

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

193—15.1(272C) Definitions. For the purposes of these rules, the following definitions apply:

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*License*” means any license or registration issued by a board.

193—15.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 193—15.3(272C), the applicant’s convictions will be reviewed when the board receives a completed license application.

15.2(1) An applicant will disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

15.2(2) An applicant with one or more convictions submits the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

15.2(3) An applicant will submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

15.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

15.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated will need to still satisfy all other requirements for licensure.

15.2(6) Any application fees paid will not be refunded if the license is denied.

193—15.3(272C) Eligibility determination.

15.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

15.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner submits all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner’s convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

193—15.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

15.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered is a proposed decision.

15.4(2) The contested case hearing is closed to the public and the board’s review of a proposed decision occurs in closed session.

15.4(3) The office of the attorney general represents the board’s initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner or applicant’s convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

15.4(4) A petitioner or applicant needs to appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding will be in accordance with Iowa Code chapter 17A.

193—15.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapter 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	6
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	1
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	1	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter includes definitions which will aid licensees and the general public better understand the remaining chapters of 193A

Is the benefit being achieved? Please provide evidence.

Yes, necessary terms are defined. [1](#)

What are the costs incurred by the public to comply with the rule?

None. No fees are being imposed in Chapter 1.

What are the costs to the agency or any other agency to implement/enforce the rule?

None, other than regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

Yes, no costs and benefits are achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Definitions are necessary and do not impose restrictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A 1.1 Definitions – redundant with code.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 1
DEFINITIONS

[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—1.1(542) Definitions. The following definitions apply to the rules of the board of accountancy.

“*Act*” means the Accountancy Act of 2001 as amended by 2008 Iowa Acts, chapter 1106.

“*AICPA*” means the American Institute of Certified Public Accountants.

“*AICPA Code of Professional Conduct*” means the AICPA code of professional conduct, as amended through January 1, 2024.

“*Attest*” or “*attest service*” means the same as Iowa Code section 542.3(1).

“*Attest engagement team*” means the team of individuals participating in attest service, including those who perform concurring and second partner reviews. The “attest engagement team” includes all employees and contractors retained by the firm who participate in attest service, irrespective of their functional classification.

“*Audit*” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

“*Board*” means the the same as Iowa Code section 542.3(2).

“*Certificate*” means the same as Iowa Code section 542.3(3).

“*Client*” means the same as Iowa Code section 542.3(6).

“*Commission*” means the same as Iowa Code section 542.3(7), and includes any form of compensation in a fixed or variable amount or percent received for selling, recommending or referring any product or service of another, including a referral fee..

“*Compensation*” means anything of value received by a CPA or LPA while practicing public accounting for selling, recommending or referring a product or service of another.

“*Compilation*” means the same as Iowa Code section 542.3(8).

“*Contingent fee*” means the same as 542.3(9).

“*Certified public accountant*” or “*CPA*” means the same as Iowa Code section 542.3(4).

“*Examination of prospective financial information*” means an evaluation by a CPA of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with AICPA presentation guidelines, and whether the assumptions in the forecast or projection provide a reasonable basis for the projection or forecast.

“*FASB*” means the Financial Accounting Standards Board.

“*Financial statement*” means a presentation of financial data, including accompanying notes derived from accounting records and intended to communicate an entity’s economic resources or obligations at a point in time or the changes therein for a period of time in conformity with a comprehensive basis of accounting, but does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting documents.

“*Firm*” means a sole proprietorship, partnership, corporation, professional corporation, professional limited liability company, limited liability partnership or any other form of organization issued a permit to practice as a firm under Iowa Code section 542.7 or 542.8 or the office of the auditor of state, state of Iowa, when the auditor of state is a certified public accountant.

“*Forecast*” means prospective financial statements that present, to the best of the responsible party’s knowledge and belief, an entity’s expected financial position, results of operations, and changes in financial position or cash flows that are

based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take.

"GASB" means the Governmental Accounting Standards Board.

"Home office" means the same as Iowa Code section 542.3(10).

"IASB" means International Accounting Standards Board.

"IFRS" means International Financial Reporting Standards.

"IRS" means the Internal Revenue Service, United States Department of the Treasury.

"License" means the same as Iowa Code section 542.3(11).

"Licensed public accountant" or "LPA" means the same as Iowa Code section 542.3(12).

"Licensed public accounting firm" means the same as Iowa Code section 542.3(13).

"Licensee" means the same as Iowa Code section 542.3(14).

"Managing partner," "managing shareholder," or "managing member" means the designated individual with ultimate responsibility for the operation of a firm's practice.

"NASBA" means the same as Iowa Code section 542.3(17).

"NSA" means the National Society of Accountants.

"Office" means the same as Iowa Code section 542.3(18).

"Owner" means any person who has equity ownership interest in a CPA or LPA firm.

"PCAOB" means Public Company Accounting Oversight Board created by the Sarbanes-Oxley Act of 2002. "Peer review," as used in Chapters 11 and 12 of these rules, means the same as Iowa Code section 542.3(19).

"Person," unless the context indicates otherwise, means individuals, sole proprietorships, partnerships, corporations, limited liability companies, limited liability partnerships or other forms of entities.

"Person associated with a CPA or LPA" means any owner, partner, shareholder, member, employee, assistant, or independent contractor of a CPA or LPA firm.

"Practice of public accounting" means the same as Iowa Code section 542.3(24).

"Practice privilege" means in the same as Iowa Code section 542.3(25).

"Principal place of business" means the same as Iowa Code section 542.3(26).

"Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions.

"Report," means the same as Iowa Code section 542.3(27).

"Respondent" means any person against whom a formal statement of charges has been filed. "Review" means the same as Iowa Code section 542.3(1)(a)(2).

"SAS" means statements on auditing standards.

"SEC" means the United States Securities and Exchange Commission.

"SSARS" means the statements on standards for accounting and review services.

"State" means the same as Iowa Code section 542.3(28).

"Substantial equivalency" means the same as Iowa Code section 542.3(29).

"Year," when used in the context as a time measurement of experience in accounting work, means a period of 365 days.

This rule is intended to implement Iowa Code chapter 542.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	667
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	7
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	2	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

To inform Iowans of the structure and functionality of the board.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved. Basic information is provided on meetings, staff responsibility, and board mission is documented.

What are the costs incurred by the public to comply with the rule?

None. No fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

None, other than regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

Yes, no costs and benefits achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter provide basic information the board which will aid licensees and the general public better understand the purpose of the board.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—2.1(542) Description.

193A—2.2(542) Advisory committees.

193A—2.3(542) Annual meeting.

193A—2.4(542) Other meetings.

193A—2.5(542) Board administrator’s duties.

193A—2.6(542) Disclosure of confidential information.

193A—2.7(17A,21,22,272C,542) Uniform bureau rules.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 2
ORGANIZATION AND ADMINISTRATION

[Prior to 7/13/88, see Accountancy, Board of^[10]]

193A—2.1(542) Description.

2.1(1) The accountancy examining board administers and enforces the provisions of Iowa Code chapter 542 with regard to the practice of accountancy in the state.

2.1(2) The primary mission of the board is to protect the public interest.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 2719C**, IAB 9/28/16, effective 11/2/16]

193A—2.2(542) Advisory committees. The board chair may appoint advisory committees composed of board members of the board to make recommendations on matters within the board’s jurisdiction.[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—2.3(542) Annual meeting. At the first board meeting scheduled after April 30 of each year (the “annual meeting”), the board will elect a chair and vice-chair to serve until their successors are elected.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—2.4(542) Other meetings. Other meetings throughout the year may be established by the chairperson, by board resolution, or by a request of a majority of board members.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—2.5(542) Board administrator’s duties. The board administrator’s duties include the following: **2.5(1)** Ensuring that complete records are kept of all applications for examination and registration, all certificates, licenses and permits granted, and all necessary information in regard thereto. The board administrator is the lawful custodian of the board records.

2.5(2) Determining when the preconditions for licensure have been satisfied with regard to issuance of certificates, licenses or registrations;

2.5 (3) Submitting to the board any questionable application.

2.5(4) Keeping accurate minutes of board meetings.

2.5 (5) Keeping a list of persons issued certificates as certified public accountants, persons issued licenses as licensed public accountants, and all firms issued permits to practice.

2.5(6) Performing such additional administrative duties as assigned. [ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.6(542) Disclosure of confidential information.

2.6(1) Persons who take the examination may consent to the publication of their names on a list of passing candidates.

2.6(2) Information relating to the examination results, including the specific grades by subject matter, may only be given to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the applicant.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others, provided the names of the persons taking the examination are not provided in conjunction with the scores.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.7(17A,21,22,272C,542) **Uniform rules.** Administrative and procedural rules can be found in IAC 193.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	200
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	15
IAC #:	193A	Chapter/ SubChapter / Rule(s):	3	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter is beneficial because it provides useful information to future licensees on the education, examination and experience requirements to acquire an Iowa CPA license.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved through detailed documentation of CPA qualifications for licensure.

What are the costs incurred by the public to comply with the rule?

Individuals seeking a license are required to have a college degree. The average cost of a college education is \$36,500 per year (educationdata.org). The cost of the exam is \$480. Experience for the license is generally acquired in paid positions.

What are the costs to the agency or any other agency to implement/enforce the rule?

None, other than regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

Yes, no costs and the benefits are achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

To promote mobility and practice privilege between states, the National Association of State Boards of Accountancy (NASBA) has designated Iowa's education, examination and experience requirements to be substantially equivalent to all other U.S. States, including a college degree of 150 credit hours, one year of experience, and passing the CPA exam.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

193A—3.1(542) Qualifications for a certificate as a certified public accountant.

193A—3.2(542) Colleges or universities recognized by the board.

193A—3.3(542) Accounting concentration.

193A—3.4(542) Examination applications.

193A—3.5(542) Content and grading of the examination.

193A—3.6(542) Conditional requirements.

193A---3.7(542) Extension of conditional status.

193A—3.8(542) Transfer of credit from another jurisdiction.

193A—3.9(542) Examination procedures.

193A—3.10(542) Conduct of the examination.

193A---3.11(542) Refunding of examination fees.

193A—3.12(542) Experience for certificate.

193A—3.13(542) Ethics course and examination.

193A—3.14(542) Obtaining the certificate

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 3
CERTIFICATION OF CPAs
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—3.1(542) Qualifications for a certificate as a certified public accountant.

3.1(1) A person who meets the qualifications of Iowa Code section 542.5 and this chapter and applies pursuant to Iowa Code section 542.6 may be granted a certificate as a certified public accountant.

3.1(2) An application may be denied if the applicant is in violation of any of the requirements of Iowa Code chapter 542, prior enforcement proceedings under chapter 193A-17, or Iowa Code section 272C.15.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—3.2(542) Colleges or universities recognized by the board. Pursuant to Iowa Code section 542.5(7), the board

recognizes educational institutions accredited by the Association to Advance Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.

This rule is intended to implement Iowa Code section 542.5.
[ARC 2152C, IAB 9/30/15, effective 11/4/15]

193A—3.3(542) Accounting concentration.

3.3(1) A candidate will be deemed to have met the educational requirement if, as part of the 150 semester hours of education as outlined in Iowa Code section 542.5, the candidate has met one of the following four conditions:

a. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency recognized by the board.

b. Earned a graduate degree in business from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours exclude elementary accounting or principles of accounting, internships or life experience.

c. Earned a baccalaureate degree in business or accounting from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours exclude elementary accounting or principles of accounting, internships or life experience.

d. Earned a baccalaureate or higher degree and completed the following hours from an accredited institution recognized by the board:

(1) At least 24 semester hours in accounting courses above elementary accounting or principles of accounting covering the subjects of financial accounting, auditing, taxation, and management accounting, not including internships or life experience; and

(2) At least 24 additional semester hours in business-related courses, not including internships or life experience. Elementary accounting hours that do not qualify under subparagraph 3.3(1)“d”(1) above may apply toward business-related courses.

Quarter hours will be accepted in lieu of semester hours at a 3:2 ratio; that is, three quarter hours is equivalent to two semester hours. Internships and life experience hours may apply toward the total 150 hours' requirement.

3.3(2) The board will consider correspondence study and study in other schools not meeting the above requirements on an individual basis if the candidate can provide evidence that such study would be acceptable for credit by a college or university recognized by the board; provided, however, that at least 18 of the required hours in accounting and at least 16 of the required hours in business-related subjects needs to be obtained from a college or university recognized by the board.

3.3(3) The applicant needs an official transcript of credit issued by a recognized institution sent by the institution to the board's test administrator at the time of application to confirm the college or university credits claimed.

3.3(4) Graduates of foreign colleges or universities will have their education evaluated by a foreign credentials evaluation advisory service specified by the board.

193A—3.4(542) Examination applications.

3.4(1) An individual desiring to take the certified public accountant examination as an initial candidate should apply to the board's test administrator. Only a complete application will be considered. A complete application includes a completed application form, the designated fee, and all applicable college transcripts.

3.4(2) To be eligible to apply for the examination a candidate needs to fulfill the requirements of rule 193A—3.3(542). A candidate may apply for the examination before the educational requirements are met as per 542.(5)9.

3.4(3) A candidate who's application is denied under 193A-3.1(2) may be denied admittance to the examination by the board.

3.4(4) A candidate may be considered as a reexamination applicant regardless of whether or not the candidate sat for the examination once initially approved. Reexamination applicants may apply to the board's test administrator.

3.4(5) A nonrefundable proctoring fee will be collected from a candidate who wishes to be proctored in Iowa.

193A—3.5(542) Content and grading of the examination.

3.5(1) The board may use the uniform certified public accountant's examination prepared by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and territories of the United States.

3.5(2) The board may also make use of the advisory grading service provided by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and

territories of the United States.

193A—3.6(542) Conditional requirements.

3.6(1) Effective with the implementation of the computer-based examination, a candidate may take the test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed will be valid for 30 months from the actual date initial credit is earned, without the candidate's having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate needs to pass all four subjects of the examination within a rolling 30-month period that begins on the date initial credit is earned, which is calculated on the date the examination administrator provides scores to the boards and/or candidate.. If all four subjects are not passed within the 30-month period, credit for any subject taken outside the 30-month period will expire.

3.6(2) A candidate will be deemed to have passed the examination once the candidate holds, at the same time, valid credit for passing each of the four subjects of the examination. For purposes of this rule, credit for passing a subject of the examination is valid from the actual date of the testing event for that subject, regardless of the date the candidate actually received notice of the passing score.

This rule is intended to implement Iowa Code section 542.5.

[ARC 9482B, IAB 5/4/11, effective 6/8/11]

193A—3.7(542) Extension of conditional status.

3.7(1) The time limit within which a candidate needs to pass all subjects under these rules will not include any period during which the candidate was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

3.7(2) The time limit within which a candidate needs to pass all subjects under these rules may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

3.7(3) The time limit within which a candidate needs to pass all subjects under these rules may be extended if circumstances occur which prevent the score from an examination from reaching the candidate in a reasonable period of time. Such circumstances would allow the candidate the opportunity to retake a failed subject.

193A—3.8(542) Transfer of credit from another jurisdiction.

3.8 A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of these rules as an Iowa candidate, provided that the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

193A—3.9(542) Examination procedures.

3.9(1) At the examination, a candidate needs to provide evidence of identification and comply with the requirements of the exam administrator. -

193A—3.10(542) Conduct of the examination.

3.10(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from accountancy licensing and certification examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

3.10(2) Individuals are subject to the conduct rules and regulations of the exam administrator.

3.10(3) Any examination candidate who wishes to appeal a decision of the board under this rule may request a contested case hearing. The request for hearing needs to be in writing, briefly describe the basis for the appeal, and be filed in the board's office within 30 days of the date of the board decision being appealed. Any hearing requested under this subrule will be governed by the rules applicable to contested case hearings under 193—Chapter 7.

193A—3.11(542) Refunding of examination fees. Examination fees will not be refunded except in hardship cases, such as when the candidate for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, a death in the family, or a call to active military service, 50 percent of the fee may be returned. Written documentation including evidence of the hardship will be provided to the board's test administrator.

193A—3.12(542) Experience for certificate.

3.12(1) One year of experience will consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in Iowa Code section 542.5(12). Experience may be gained in more than one employment situation, including an internship.

3.12(2) An applicant seeking qualification as an attest CPA will have at a minimum two years of experience as more fully described in 193A—subrule 6.3(1).

3.12(3) All experience will be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of Iowa Code section 542.5(12) if the applicant is not supervised by a licensee.

3.12(4) Teaching experience will be in the employment of an institution of higher education and will include teaching a minimum of 24 semester hours of accounting courses for which the course participants receive credit on an official transcript. Teaching of noncredit continuing education courses will not qualify under this rule.

193A—3.13(542) Ethics course and examination. A successful candidate will need to pass an examination covering the code of ethical conduct prior to issuance of the certificate.

193A—3.14(542) Obtaining the certificate.

3.14(1) A candidate who successfully passes the examination, completes the ethics course and examination and meets the obligations of rule 193A—3.1(542) needs to apply for the certificate on the board’s website. An applicant for a certificate may be denied the certificate for reasons outlined in subrule 3.4(3) regardless of when the incident occurred.

3.14(2) If the candidate does not file an application for a certificate within three years of passing the exam, the candidate needs to comply with the basic continuing education obligations outlined in rule 193A—10.5(542) prior to filing an application. The continuing education hours needs to include a minimum of eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates.

[ARC 9482B, IAB 5/4/11, effective 6/8/11]

193A—3.15(542) Use of title.

3.15(1) Only a person who holds an active, unexpired certificate and who complies with the requirements of 193A—Chapters 5 and 10 or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title “certified public accountant” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

3.15(2) Rules regarding the use of the title “CPA” in a firm name are found in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1017
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	34

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	17
IAC #:	193A	Chapter/ SubChapter / Rule(s):	4	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 4 provides future licensees useful information on the education, examination and experience required by Iowa Code 542.8 to acquire an Iowa Licensed Public Accountant’s license.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved through detailed documentation of the necessary components for an LPA license.

What are the costs incurred by the public to comply with the rule?

Per the statute, an LPA candidate may take the examination described in the rule with two-years or more of qualifying accounting experience or a 4-year college degree. The rule specifies the yearly hours and type of work necessary for the work experience to qualify. The experience is acquired mostly through paid positions. The rule also specifies the coursework type and hours necessary for the college degree to qualify. The average cost of a college education is \$36,500 per year (educationdata.org). The rule specifies that an applicant must pass the exam offered by the Accreditation Council for Accountancy and Taxation (\$250) or AICPA (\$240).

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The required examinations are standard in the industry and applicants have two options. The statute also

provides an education and an experience option.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—4.1(542) Qualifications for a license as a licensed public accountant.
193A—4.2(542) Examination application.
193A—4.3(542) Major in accounting.
193A—4.4(542) Transcripts
193A—4.5(542) Deadline for filing applications.
193A—4.6(79GA,ch55) Admittance prior to completing educational requirements.
193A—4.7(542) Content and grading of the examination.
193A—4.8(542) Conditional requirements.
193A—4.9(542) Examination procedures.
193A—4.10(542) Refunding of examination fees.
193A—4.11(542) Credit for an examination taken in another state.
193A—4.12(542) Experience for license.
193A—4.13(542) Ethics course and examination.
193A—4.14(542) Statements on standards for accounting and review services (SSARS) education.
193A—4.15(542) Obtaining the license.
193A—4.16(542) Licensure by reciprocity.
193A—4.17(542) Use of title.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A---4.5(542) Deadline for Filing Applications

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 4
LICENSURE OF LPAS
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—4.1(542) Qualifications for a license as a licensed public accountant.

4.1(1) A person who meets the qualifications and applies subject to Iowa Code section 542.8 may be granted a license as a licensed public accountant.

4.1(2) An application may be denied if the applicant is in violation of any of the requirements of Iowa Code chapter 542, prior enforcement proceedings under chapter 193A-17, or Iowa Code section 272C.15.

193A—4.2(542) Examination application.

4.2(1) An individual desiring to take the examination to qualify for a license as a licensed public accountant should apply to the board's test administrator.

4.2(2) To be eligible to take the examination, the applicant needs to meet the conditions of Iowa Code section 542.8(1) "b" at the time of filing the application.

4.2(3) A candidate who's application is denied under 193A-4.1(2) may be denied admittance to the examination by the board.

193A—4.3(542) Major in accounting. In determining whether the conditions in Iowa Code section 542.8(1) "b"(2) as to a "major in accounting" has been met, the board will follow the rules associated with a "concentration in accounting" outlined in rule 193A—3.3.

193A—4.4(542) Transcripts needed. The applicant's claim to college or university credits needs to have an official transcript of credit issued by a recognized institution sent by the institution to the board's test administrator at the time of application to confirm the college or university credits claimed.

193A—4.5(79GA,ch55) Admittance prior to completing educational conditions. Rescinded IAB 2/16/05, effective 3/23/05.

193A—4.6(542) Content and grading of the examination.

4.6(1) The board may use the examination prepared by the Accreditation Council for Accountancy and Taxation, without questions regarding auditing or attest functions.

4.6(2) The board may use the grading services provided by the Accreditation Council for Accountancy and Taxation.

4.6(3) Absent a showing of good cause, the board will accept the passing grade established by the Accreditation Council for Accountancy and Taxation.

4.6(4) Alternatively, an applicant may satisfy the examination obligations of this rule by passing the Financial Accounting and Reporting and Regulation sections of the CPA examination provided by the AICPA.

193A—4.7 Conditional Requirements. Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed will be valid for 18 months from the actual date the candidate sat for the subject, without the candidate's having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate needs to pass both subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If both subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period will expire.

193A—4.8(542) Examination procedures. The examination procedures to be followed by a candidate for the certified public accountants' examination as outlined in rule 193A—3.8(542) apply to a licensed public accountant examination candidate.

193A—4.9(542) Refunding of examination fees. Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in 193A—3.10(542).

193A—4.10(542) Credit for an examination taken in another state. A candidate who has partially passed an examination in another state will be given credit for the part or parts passed, provided the candidate meets the conditioning requirements of the board and further provided the examination given by the licensing authority in the other state was an examination that complies with 193A-4.7.

193A—4.11(542) Experience for license.

4.11(1) One year of experience will consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in Iowa Code section 542.8(8). Experience may be gained in more than one employment situation, including an internship.

4.11(2) All experience will be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the conditions of subrule 4.12(1) if the applicant is not supervised by a licensee.

4.11(3) Teaching experience needs to be in the employment of an institution of higher education and needs to include teaching a minimum of 24 semester hours of accounting courses for which the course participants will receive credit on an official transcript. Teaching of noncredit continuing education courses will not qualify under this rule.

193A—4.12(542) Ethics course and examination. A successful candidate will need to pass an examination covering the code of ethical conduct prior to issuance of the license.

193A—4.13(542) Statements on standards for accounting and review services (SSARS) education. An LPA license applicant needs to complete a minimum of eight hours of continuing education devoted to statements on standards for accounting and review services (SSARS) prior to issuance of the license. -

193A—4.14(542) Obtaining the license. A candidate who successfully passes the examination and completes conditions outlined in rules 193A—4.12(542), 4.13(542) and 4.14(542) may apply for licensure on the board’s website. An applicant is obligated to list on the application all states in which the applicant has applied for or holds a certificate, license or permit and will also list any past denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit. An applicant will notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state. An applicant for licensure may be denied the license for reasons outlined in subrule 4.1(2) regardless of when the incident occurred.

193A—4.15(542) Licensure by reciprocity.

4.15(1) Iowa Code section 542.8 examination obligations will be waived for an applicant who has passed a comparable examination administered by another state if the examination was prepared and graded by the Board of Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

4.15(2) A person desiring a license as a licensed public accountant in this state on the basis of a licensed public accountant license issued by another state needs to apply on the board’s website. The burden is on the applicant to obtain information satisfactory to the board that the applicant’s license in such other state is in full force and effect and that the conditions for obtaining such license were substantially equivalent to those of this state to obtain a license as a licensed public accountant.

4.15(3) An applicant needs to list on the application all states in which the applicant has applied for or holds a certificate, license or permit and needs to also list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license, or permit. An applicant needs to notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state.

4.15(4) An applicant needs to affirm that all information provided on the form is accurate. Providing false information will be considered prima facie evidence of a violation of Iowa Code chapter 542. A nonrefundable application fee will be charged to each applicant.

193A—4.16(542) Use of title. Only a person holding a license as a licensed public accountant may use or assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a licensed public accountant.

These rules are intended to implement Iowa Code section 542.8.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	598

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation

38

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	9
IAC #:	193A	Chapter/ SubChapter / Rule(s):	5	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 5 provides useful information to current Iowa CPA/LPA licensees on maintaining the license.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved through detailed documentation covering the license renewal process and the various status options for a license.

What are the costs incurred by the public to comply with the rule?

None. No fees are being imposed in Chapter 5. Costs related to this chapter are imposed by Chapters 10 and 12.

What are the costs to the agency or any other agency to implement/enforce the rule?

None, other than regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

Yes, no costs and the benefits are achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter provides information on CPA/LPA license status options and license renewal procedures.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—5.1(542) Licensure status and practice privilege.

193A—5.4(542) Notices.

193A—5.5(542) Renewal procedures.

193A—5.6(542) Failure to renew.

193A—5.7(272C,542) Certificates and licenses—property of the board.

193A—5.8(542) Licensee’s continuing duty to report.

193A—5.9(272C,542) Inactive status.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A---5.3(542) License Renewal

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 5
LICENSURE STATUS AND RENEWAL OF CERTIFICATES AND LICENSES

[Prior to 7/13/88, see Accountancy, Board of^[10]

[Prior to 5/1/02, see 193A—Chapter 6]

193A—5.1(542) Licensure status and practice privilege.

5.1(1) Licenses issued by the board pursuant to Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, may be in active, inactive, or lapsed status, as follows:

a. An initial license is issued in active status with an expiration date. Maintaining active status is conditioned on periodic renewal as provided in rule 193A—5.3(542). Completion of sufficient continuing education as provided in 193A—Chapter 10 is a prerequisite to renewal in active status.

b. A license may be renewed in inactive status as provided in rule 193A—5.9(272C,542) if the licensee does not satisfy the continuing education obligations for renewal in active status. A renewal license issued in inactive status lapses if not timely renewed pursuant to rule 193A—5.3(542). An inactive license may be reinstated to active status at any time pursuant to subrule 5.9(7).

c. An active or inactive license that is not timely renewed lapses. A lapsed license may be reinstated to active or inactive status at any time pursuant to subrule 5.6(3).

5.1(4) Practicing public accounting in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed license is a ground for discipline under Iowa Code section 542.10 and may also or alternatively provide grounds for the regulatory actions described in Iowa Code section 542.14.

5.1(5) Out-of-state individuals holding an inactive or lapsed Iowa CPA certificate and out-of-state individuals to whom an Iowa CPA certificate has never been issued under Iowa Code chapter 542 or prior law may exercise a practice privilege under Iowa Code section 542.20 if they hold an active CPA certificate in the jurisdiction in which they maintain their principal place of business and otherwise satisfy all of the conditions described in Iowa Code section 542.20 and 193A—Chapter 20.

5.1(6) Exercising a practice privilege in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed Iowa CPA certificate places a special burden on the individual to ensure that the public is informed about the individual’s licensure status in Iowa and in the jurisdiction of active licensure, as provided in 193A—paragraphs 20.8(2) “b” and

20.8(3) “b.” As a practical matter, an individual’s failure to clarify licensure status in Iowa and in the jurisdiction of the individual’s principal place of business may confuse the public. However, the public may consult CPAverify, a comprehensive national data bank, to verify an individual’s licensure in another jurisdiction. CPAverify may be accessed at www.cpaverify.org. A client contacting the board or consulting the board’s website will be informed of the individual’s licensure status in Iowa.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 9482B, IAB 5/4/11, effective 6/8/11; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—5.2(542) Renewal of license that expires on or before June 30, 2010. Rescinded IAB 5/4/11, effective 6/8/11.

193A—5.4(542) Notices.

5.4(1) The board typically sends, by electronic means, a notice to licensees in the May preceding license expiration, but neither the failure of the board to send nor a licensee’s failure to receive a renewal notice excuses the obligation to timely renew a license.

5.4(2) A licensee needs to notify the board within 30 days of any change of address or firm affiliation.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—5.5(542) Renewal procedures.

5.5(1) Licenses expire on June 30 of each year. Licensee will submit electronic online renewal application by the deadline in the renewal year. An application is deemed filed on the date of electronic renewal. An annual renewal fee will be charged.

5.5(2) Applicants for renewal are obligated to disclose on the application all background and character information requested by the board including, but not limited to:

- a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, an LPA license, or a substantially equivalent designation from a foreign country;
- b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or LPA license, or voluntary surrender of a CPA certificate, license or permit or LPA license to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;
- c. Any other form of discipline or other penalty imposed against a CPA certificate, license or permit, LPA license, or a substantially equivalent foreign designation, or a practice privilege;
- d. The conviction of any crime; and
- e. The revocation of a professional license of any kind in this or any other jurisdiction.

5.5(3) A licensee who performs compilation services for the public other than through a certified public accounting or licensed public accounting firm needs to submit a certification of completion of a peer review conducted in accordance with 193A—Chapter 11 no less often than once every three years.

5.5(4) Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application needs to be:

- a. Received by the board in electronic form on or before the date the license is set to expire or lapse;
- b. Certified as accurate through the online renewal process;
- c. Fully completed, including continuing education, if applicable; and
- d. Accompanied with the proper fee. Attempted financial transactions that result in payment of anything less than the proper fee will result in application rejection.

5.5(5) The administrative processing of an application to renew an existing license does not prevent the board from subsequently commencing a contested case to challenge the licensee’s qualifications for continued licensure if grounds exist to do so.

5.5(6) If grounds exist to deny a timely and sufficient application to renew, the board will send written notification to the applicant by certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the licensee failed to meet the continuing education obligations. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board’s decision as provided in 193—subrule 7.39(1).

5.5(7) When a licensee appears to be in violation of mandatory continuing education under 193A—Chapter 10, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.39(546,272C), offer a licensee the opportunity to renew in inactive status or to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty, depending on the severity of the violation; establish deadlines for compliance; and may impose additional educational obligations on the licensee. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed license and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—

subrule 7.39(1). A licensee who falsely reports continuing education to the board may be subject to additional sanctions including, when appropriate, suspension or revocation.

5.5(8) A certificate or license holder who continues to practice public accounting as a CPA or an LPA in Iowa after the certificate or license has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 4243C**, IAB 1/16/19, effective 2/20/19]

193A—5.6(542) Failure to renew.

5.6(1) A license or certificate holder who fails to renew the certificate or license by the expiration date, but does so within 30 days following its expiration date, will be assessed a penalty as provided in rule 193A—12.1(542).

5.6(2) If the holder fails to renew the certificate or license within the 30-day grace period the certificate or license will lapse. The licensee is not authorized to practice during the period of time that the certificate or license is lapsed, including the 30-day grace period.

5.6(3) The board may reinstate a lapsed certificate or license upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided in rule 193A—12.1(542); and
- b. Paying the current renewal fee; and
- c. Providing evidence of completed continuing education outlined in rule 193A—10.5(542), if the licensee wishes to reinstate to active status; and
- d. Providing a written statement outlining the professional activities of the applicant during the period in which the applicant's license was lapsed describing all services performed which constitute the practice of accounting including, but not limited to, those professional practice activities described in subrule 5.9(2). The applicant will also be obligated to state whether the applicant exercised a practice privilege in the period during which the license was lapsed and, if so, the jurisdiction of the applicant's principal place of business and status of out-of-state licensure.

5.6(4) A licensee holding a lapsed CPA certificate is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title "CPA" in Iowa or for a client with a home office in Iowa. A licensee holding a lapsed LPA license is not authorized to perform compilation services or to otherwise practice public accounting in Iowa using the title "LPA." A licensee holding a lapsed CPA certificate or LPA license may not use the title "CPA" or "LPA" in any context unless the licensee discloses that the certificate or license has lapsed. Additionally, a person holding a lapsed Iowa CPA certificate and who is actively licensed as a CPA in another jurisdiction in which the person maintains the principal place of business may be eligible to exercise a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

5.6(5) Practicing public accounting on a lapsed license is a ground for discipline. The board may find probable cause to file charges if the individual continues to offer services defined as the practice of public accounting while using the title "CPA" or "LPA" during the period of lapsed licensure. In addition to the disciplinary sanctions described in rule 193A—16.3(272C,542), individuals found to have practiced public accounting on a lapsed license will be obligated to notify clients upon such terms as the board orders.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 9482B**, IAB 5/4/11, effective 6/8/11]

193A—5.7(272C,542) Certificates and licenses—property of the board. Every certificate or license granted by the board will, while it remains in the possession of the holder, be preserved by the holder but always remains the property of the board. In the event that the certificate or license is revoked or suspended, or is not renewed in the manner prescribed by Iowa Code chapter 542 or 272C, the licensee will, on demand, deliver the certificate or license by the holder to the board. However, a person is entitled to retain possession of a lapsed certificate or license that has not been revoked, suspended or voluntarily surrendered in a disciplinary action as long as the person complies with all provisions of Iowa Code sections 542.10 and 542.13. A lapsed certificate or license may be reinstated to active or inactive status at any time pursuant to subrule 5.6(3).

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—5.8(542) Licensee's continuing duty to report. An active or inactive licensee has a duty to notify the board in writing of the licensee's conviction of a crime within 30 days of the date of conviction. "Conviction" is defined in Iowa Code section 542.5(2). Licensees also have a duty to notify the board in writing within 30 days of the date of any issuance, denial, revocation, or suspension of a certificate, license or permit by another state.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—5.9(272C,542) Inactive status.

5.9(1) General purpose. This rule establishes a procedure under which a person issued a certificate as a certified public accountant or a license as a licensed public accountant may apply to the board for licensure in inactive status. Inactive licensure under this rule is available to a certificate or license holder who is not engaged in Iowa or for a client with a home office in Iowa in any practice of public accounting. A person eligible for inactive status may, as an alternative, allow the person's certificate

or license to lapse. **5.9(2) Eligibility.** A person holding a lapsed or active certificate or license that has not been revoked or suspended may apply to renew in inactive status through the online application process if the person is not engaged in the state of Iowa or for clients with a home office in Iowa in any practice regulated by the board, including:

a. Supervising or performing any attest services, such as audits, reviews or agreed-upon procedures (which may only be performed by a CPA within a CPA firm that holds a permit to practice);

b. Supervising or performing compilation services or otherwise issuing compilation reports (which may only be performed by a CPA or LPA); or

c. Performing any accounting, tax, consulting, or financial or managerial advisory services for any client, business, employer, government body, or other entity while holding oneself out as a CPA or LPA, or otherwise using titles regulated by in Iowa Code section 542.13.

5.9(3) Affirmation. The application form will contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa listed in subrule 5.9(2) without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to subrule 5.9(7).

5.9(4) Renewal. A person licensed in inactive status may renew the person’s certificate or license on the schedule described in rule 193A—5.1(542). Such person is exempt from the continuing education under 193A—Chapter 10 and will be charged a reduced renewal fee as provided in rule 193A—12.1(542). An inactive certificate or license lapses if not timely renewed.

5.9(5) Permitted practices. A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those accounting, tax, consulting, or financial or managerial advisory services which may lawfully be performed by a person to whom a certificate or license has never been issued as long as the person does not in connection with such services use the title “CPA” or “LPA,” or any other title regulated under Iowa law for use only by CPAs or LPAs in Iowa Code section 542.13 (with or without additional designations such as “inactive”). Regulated titles may only be used by active CPAs or LPAs who are subject to continuing education under 193A—Chapter 10 to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education. Additionally, individuals who are actively licensed as CPAs in another jurisdiction in which they maintain their principal place of business may be eligible to exercise a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

5.9(6) Unlicensed practices. A person who, while licensed in inactive status, engages in any of the practices described in subrule 5.9(2) or violates any provision of rule 193A—14.2(17A,272C,542) is subject to disciplinary action. A person in inactive status is not authorized to verify the experience of an applicant for a CPA certificate under Iowa Code section 542.5(12) or an applicant for an LPA license under Iowa Code section 542.8(8).

5.9(7) Reinstatement to active status. A person licensed in inactive status needs to, prior to engaging in any of the practices in Iowa listed in subrule 5.9(2) or for a client with a home office in Iowa, apply to the board to reinstate to active status. Such person will be obligated to pay the applicable renewal fee for active status, but is given credit for renewal fees previously paid for inactive status if the person applies for reinstatement at a date other than the person’s regular renewal date. Such person will be obligated to demonstrate compliance with all applicable continuing education and peer review obligations. A person who has engaged in the practice of public accounting as an active licensee of another jurisdiction while licensed as inactive in Iowa will be deemed to have satisfied the continuing education obligations for reinstatement if the person demonstrates that the person has satisfied substantially equivalent continuing education in the other jurisdiction.

5.9(8) Retired status. A person holding an inactive license who does not reasonably expect to return to the workforce in the practice of public accounting due to bona fide retirement or disability may use the title “CPA, retired” or “LPA, retired,” as applicable, in the context of non-income-producing personal activities. These designations may only be used during a period of bona fide retirement or disability.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 4243C**, IAB 1/16/19, effective 2/20/19]

These rules are intended to implement Iowa Code chapters 272C and 542 and Iowa Code section 546.10.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	85
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	38

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	4
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Attest is an additional certification above the CPA 'standard' license. Chapter 6 covers the functionality of attest and the additional experience necessary to request the additional certification.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by documenting the details of the attest and compilation functions.

What are the costs incurred by the public to comply with the rule?

The fee for attest certification is \$100. The required 4,000 hours of experience, including 2,000 hours providing attest services under supervision, is acquired through paid employment.

What are the costs to the agency or any other agency to implement/enforce the rule?

None, other than regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

Yes, no costs and the benefits are achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter provides information on who may perform attest and compilation services, the experience required, and the business structure. It would be less restrictive to not require attest experience for the attest certification. The results of a poll (below) indicate that fewer states require a separate certification.

	Does your jurisdiction law and/or rules include provisions for individual CPAs to perform attest and compilation service?	If yes, does your jurisdiction require a separate, additional certification for individual CPAs to perform attest/compilation services?
State/Board:	Response	Response

ID	No	
MN	Yes	No
PR	Yes	No
OR	Yes	No
TN	No	
OH	No	No
CA	Yes	Yes
UT		
IN	Yes	No
DC	Yes	No
WV	Yes	Yes
AL	Yes	No
VA	Yes	Yes
SD	Yes	No
CT	Yes	No
GU	Yes	Yes
HI	Yes	Yes
AZ	No	No
WA	Yes	No
NV	No	No
NC	Yes	No
MS	Yes	Yes
IL	Yes	No
AR	Yes	No
FL	No	
KS	No	
NY	Yes	No
LA	No	
GA	No	
KY	No	

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—6.1(542) Who may perform attest services.

193A—6.2(542) Necessary experience.

193A—6.3(542) Attest qualification.

193A—6.4(542) Compilation services.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 6
ATTEST AND COMPILATION SERVICES

193A—6.1(542) Who may perform attest services.

6.1(1) Only a CPA may perform audit, review, or other attest services, as defined in Iowa Code section 542.3(1).

6.1(2) An active Iowa CPA certificate or exercise a practice privilege under Iowa Code section 542.20 is needed before CPAs perform attest services in Iowa or for a client with a home office in Iowa. CPAs are cautioned, however, that a government body, or a client may obligate that an individual be licensed in Iowa as a condition of performing attest services in Iowa or for a client with a home office in Iowa, whether or not the individual may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accountant is a precondition, for example, to perform certain audit services described in Iowa Code chapter 11.

6.1(3) CPAs performing attest services, whether the CPAs are certified in Iowa or exercising a practice privilege, may only do so in a CPA firm that holds a permit to practice pursuant to Iowa Code section 542.7 or in an out-of-state CPA firm exercising a practice privilege in compliance with Iowa Code sections 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7.

6.1(4) CPAs who are responsible for supervising attest services for a CPA firm or who sign or authorize someone to sign the accountant's report on behalf of a CPA firm are obligated to satisfy the experience or competency obligations established by nationally recognized professional standards that are applicable to the attest services performed.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 0413C**, IAB 10/31/12, effective 12/5/12; **ARC 2152C**, IAB 9/30/15, effective 11/4/15; **ARC 3422C**, IAB 10/25/17, effective 11/29/17]

193A—6.2(542) Necessary attest experience.

6.2(1) A CPA who is responsible for supervising attest services or who signs or authorizes someone to sign the accountant's report on behalf of a firm is obligated to have two years of full-time or part-time equivalent experience that extends over a period of no less than two years and includes no fewer than 4,000 hours, including at least 2,000 hours providing attest services under the supervision of one or more CPAs responsible for supervising attest services on behalf of a CPA firm that holds a permit to practice in Iowa or an equivalent form of CPA firm licensure in another jurisdiction.

6.2(2) Experience needs to include all of the following:

- a. Experience in applying a variety of attest procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- b. Experience in the preparation of attest working papers covering the examination of the accounts usually found in accounting records.
- c. Experience in the planning of the program of attest work including the selection of the procedures to be followed.
- d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the content of the accounting records.
- e. Experience in the preparation and analysis of reports and financial statements together with explanations and notes thereon.

6.2(3) Attest experience is verified by the applicant and by a CPA who supervised the applicant or, if a supervising CPA is unavailable, by a CPA or CPA firm with sufficient factual documentation to verify the applicant's attest qualification.

6.2(4) Any applicant or CPA who has been requested to submit to the board evidence of an applicant's attest experience and has refused to do so will, upon request by the board, explain in writing or in person the basis for the refusal. The board may compel any applicant or CPA who furnished the evidence of an applicant's experience to substantiate the information provided. An applicant may be compelled to appear before the board to supplement or verify evidence of experience. The board may inspect documentation relating to an applicant's claimed experience.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 2152C**, IAB 9/30/15, effective 11/4/15; **ARC 6123C**, IAB 1/12/22, effective 2/16/22]

193A—6.3(542) Attest qualification.

6.3(1) Attest qualification is necessary before a CPA may perform attest services in Iowa or for a client with a home office in Iowa. "Attest qualification" or "attest qualified" means that the CPA has satisfied the experience obligations of rule **193A—6.2(542)**.

6.3(2) All CPAs who held an individual permit to practice in Iowa at any point prior to July 1, 2002, are deemed to be attest qualified. Under Iowa law prior to July 1, 2002, CPAs were only issued an individual permit to practice if they verified qualification to perform attest services. Individual permits to practice were discontinued under Iowa law effective July 1, 2002.

6.3(3) CPAs who did not hold a permit to practice prior to July 1, 2002, may attain or establish attest qualification as follows:

- a. Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6 or when applying for reciprocal Iowa certification under Iowa Code section 542.19 or any other applicable law or rule.

- b. Iowa CPA certificate holders may apply for attest qualification at any time at which they are qualified to do so.

- c. Out-of-state CPAs performing attest services while exercising a practice privilege under Iowa Code section 542.20 do not have to individually apply to the board for attest qualification. However, if:

- (1) CPAs perform attest services in an Iowa CPA firm, the Iowa CPA firm will affirm when applying for an initial or renewal firm permit to practice that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

- (2) CPAs perform attest services through an out-of-state CPA firm exercising a practice privilege, the out-of-state CPA firm will affirm upon request from the board that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 2152C**, IAB 9/30/15, effective 11/4/15; **ARC 3422C**, IAB 10/25/17, effective 11/29/17; **ARC 5562C**, IAB 4/21/21, effective 5/26/21]

193A—6.4(542) Compilation services.

6.4(1) Only a CPA licensed by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed by the board under Iowa Code section 542.8 or any other applicable law or rule; or a person exercising a practice privilege under Iowa Code section 542.20 may issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa.

6.4(2) An individual described in subrule 6.4(1) may perform compilation services through a CPA firm which holds a permit to practice under Iowa Code section 542.7, an LPA firm which holds a permit to practice under Iowa Code section 542.8, a CPA firm exercising a practice privilege under Iowa Code section 542.20, or, if both the individual and business comply with Iowa Code section 542.13(13), through any other form of business.

6.4(3) All individuals described in subrule 6.4(1) who are responsible for supervising compilation services or who will sign or authorize someone to sign the accountant's compilation report on financial statements, as such compilation services

will be performed in Iowa or for a client with a home office in Iowa, is obligated to comply with the nationally recognized professional standards that are applicable to compilation services, including SSARS.

6.4(4) All individuals described in subrule **6.4(1)** will satisfy peer review obligations, individually or through the peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 5562C**, IAB 4/21/21, effective 5/26/21]

These rules are intended to implement Iowa Code chapter 542.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	56
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	9
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 7 offers information to acquire a CPA firm license in Iowa.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by documenting the components necessary for a CPA firm license.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—7.1(542) When licensure is needed.

193A—7.2(542) Application process.

193A—7.3(542) Application contents

193A—7.5(54) Renewal procedure.

193A—7.6(542) Failure to renew permit.

193A—7.7(542) Notice to the boards required

193A—7.8(542) Noncompliance.

193A—7.9(542) Peer review obligations

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A—7.4(542) Annual renewal of permit.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 7
CERTIFIED PUBLIC ACCOUNTING FIRMS
[Prior to 5/1/02, see 193A—Chapter 8]

193A—7.1(542) When licensure is needed.

7.1(1) Except as provided in subrule 7.1(6), a sole proprietorship, corporation, partnership, limited liability company, or any other form of organization is obligated to apply for a permit to practice as a firm of certified public accountants as per Iowa Code 542.7

7.1(2) A firm which is not subject to subrule 7.1(1) may practice public accounting in Iowa in accordance with Iowa Code 542.7(1)b.

7.1(3) Unless individual Iowa licensure is needed by a government body or a client, the public accounting services provided by a CPA firm holding an Iowa permit to practice may be performed in Iowa or for a client with a home office in Iowa by Iowa CPAs or wholly by persons exercising a practice privilege under Iowa Code section 542.20.

7.1(4) A CPA firm issued a permit to practice by the board is accountable to the board and subject to discipline by the board for the acts of its owners or other agents, pursuant to 193A—subrule 14.2(4), whether or not such persons are individually licensed by the board.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 0413C**, IAB 10/31/12, effective 12/5/12; **ARC 2152C**, IAB 9/30/15, effective 11/4/15; **ARC 3422C**, IAB 10/25/17, effective 11/29/17]

193A—7.2(542) Application process.

7.2(1) All applications are submitted through the board’s online application process. The board will only process fully completed applications accompanied by the proper fee. Each application fee is nonrefundable..

7.2(2) An initial or renewal application for a firm permit to practice may be denied:

a. As per Iowa Code 542.7(3)(f) or

b. Based on the firm’s failure to comply with Iowa Code section 542.7 including, but not limited to, a failure to make the designations described in subrule 7.1(5) or a failure to sustain the simple majority of ownership obligations of by Iowa Code section 542.7(3); or

c. Based on a regulatory or disciplinary action or to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 7.3(14) and 7.3(15) against any of the firm’s licensed or unlicensed owners.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 2152C**, IAB 9/30/15, effective 11/4/15; **ARC 4243C**, IAB 1/16/19, effective 2/20/19; **ARC 5562C**, IAB 4/21/21, effective 5/26/21]

193A—7.3(542) Application contents. Applicants for a firm permit to practice will provide information requested by the board, including:

7.3(1) The lawful name of the firm.

7.3(2) The legal form and jurisdiction of the firm’s organization.

7.3(3) Contact information for the principal place of business of the firm and each Iowa office.

7.3(4) All jurisdictions in which the firm is licensed or has applied for licensure.

7.3(5) The names, licensure, and contact information for all persons described in subrule 7.1(5).

7.3(6) The highest level of public accounting services offered by the firm, such as compilation or attest.

7.3(7) Evidence of satisfactory completion of the last firm peer review, when applicable.

7.3(8) Sufficient information from which the board can determine that a simple majority of owners hold a CPA certificate under Iowa Code section 542.6 or 542.19 or hold a CPA certificate in another state and are eligible to exercise a practice privilege under Iowa Code section 542.20. The board reserves the right to request at any time a full list of owners, or a targeted sublist, such as a list of those persons who perform services from an Iowa office or those who perform attest or compilation services in Iowa or for a client with a home office in Iowa.

7.3(9) The affirmation described in 193A—paragraph 6.3(3) “c.”

7.3(10) Affirmation that all CPAs who are responsible for supervising attest services for the CPA firm or who sign or authorize someone to sign the accountant’s report on behalf of the CPA firm satisfy the experience or competency standards established by nationally recognized professional standards that are applicable to the attest services performed in Iowa or for clients with a home office in Iowa.

7.3(11) Affirmation that all CPAs or LPAs who are responsible for supervising compilation services or who sign or authorize someone to sign the accountant’s compilation report on behalf of the firm comply with nationally recognized professional standards that are applicable to the compilation services performed in Iowa or for a client with a home office in Iowa.

7.3(12) Affirmation that all nonlicensee owners are active participants in the firm or affiliated entity.

7.3(13) Affirmation that the firm and its licensed or unlicensed owners will comply with all applicable Iowa laws and rules, including rules of professional conduct, when practicing in Iowa or for a client with a home office in Iowa.

7.3(14) Details of any past denial, cancellation, revocation, suspension, refusal to renew, or voluntary surrender of a

professional license of any kind, authority to practice, or practice privilege by the board or another state agency in any jurisdiction, a federal agency, or the PCAOB, regarding the firm and the firm’s current owners (e.g., partners, shareholders, or members).

7.3(15) Details of any past felony conviction or the conviction of any crime, any element of which is dishonesty or fraud, as provided in Iowa Code section 542.5(2), under the laws of any state or the United States, regarding the firm and the firm’s current owners (e.g., partners, shareholders, or members).

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—7.4(542) Renewal procedures.

7.4(1) The permit holder will submit an electronic online renewal by the June 30 deadline each year. Applications shall be deemed filed on the date of electronic renewal.

7.4(2) The permit holder will list on the renewal application all states in which the applicant has applied for or holds a permit as a certified public accounting firm and list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a permit to practice or practice privilege. Renewal applications include such additional information as the board requests, including all of the information described in rule 193A—7.3(542).

7.4(3) Within the meaning of Iowa Code chapters 17A, 272C and 542, a timely and sufficient renewal application shall be:

- a. Received by the board in electronic form on or before June 30.-
- b. Certified as accurate through the online renewal process;
- c. Fully completed and accompanied with the proper fee. The fee is deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant’s check is returned for insufficient funds or a closed account.

193A—7.5(542) Failure to renew permit.

7.5(1) A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, will be assessed a penalty as provided in rule 193A—12.1(542).

7.5(2) If the firm fails to renew the permit within the 30-day grace period outlined in subrule 7.6(1), the permit will lapse and the firm will need to reinstate in accordance with subrule 7.6(3). The firm is not authorized to practice during the period of time that the permit is lapsed, including the 30-day grace period.

7.5(3) The board may reinstate the permit upon payment of the proper renewal fee and a penalty as provided in rule 193A—12.1(542). A written statement outlining the firm’s professional activities during the period of lapsed licensure, including a list of Iowa clients and the services performed, is also needed.

7.5(4) The board may find probable cause to file charges for unlicensed practice if the firm engaged in any activity that obligates licensure pursuant to subrule 7.1(1) during the period of lapsed licensure. In addition to the disciplinary sanctions described in rule 193A—16.3(272C,542), firms found to have practiced public accounting in violation of subrule 7.1(1) on a lapsed license will notify clients upon such terms as the board orders.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 9482B, IAB 5/4/11, effective 6/8/11]

193A—7.6(542) Notice to the board. A holder of or applicant for a permit shall notify the board in writing within 30 days as per 542.7(6)

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15]

193A—7.7(542) Noncompliance . The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action under 542.7(7).

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	719
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	26

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	7
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	8	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 8 covers the components necessary for an Iowa LPA firm license.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by detailing compliance with the rules on licensure and renewals.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—8.1(542) Initial permit to practice.

193A—8.3(542) Renewal Procedures

193A—8.4(542) Failure to renew permit.

193A—8.5(542) Notice to the board.

193A—8.6(542) Noncompliance

193A—8.7(542) Peer review obligations

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A—8.2(542) Annual renewal of permit.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 8
LICENSED PUBLIC ACCOUNTING FIRMS
[Prior to 7/13/88, see Accountancy, Board of^[10]]

193A—8.1(542) Initial permit to practice.

8.1(1) A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization may apply for a permit to practice under Iowa Code section 542.8

8.1(2) The application may be completed and submitted through the online application process and provide sufficient information as per Iowa Code section 542.8(12) or certificates issued by the board under Iowa Code section 542.6 or 542.19. or are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner has to be licensed under Iowa Code section 542.8.

8.1(3) The application will list the physical location and contact information for all offices within this state and the licensee in charge of each such office.

8.1(4) Fraud or deceit, by commission or omission, in obtaining a firm permit to practice is a ground for discipline, including permanent revocation of the firm's permit to practice, the individual certificate of an Iowa LPA or CPA, or an individual's practice privilege, as applicable to the entity or persons responsible.

8.1(5) An initial or renewal application for a firm permit to practice may be denied as per 542.8(12)(e):

193A—8.2(542) Renewal procedures.

8.2(1) The permit holder submits an online renewal with the board by the June 30 deadline each year. Applications are deemed filed on the date of renewal.

193A—8.3(542) Failure to renew permit.

8.3(1) A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, will be assessed a penalty of 25 percent of the annual renewal fee.

8.3(2) If the firm fails to renew the permit within the 30-day grace period outlined in subrule 8.4(1), the permit will lapse and the firm may then reinstate in accordance with subrule 8.4(3). The firm is not authorized to practice as an LPA firm during the period of time that the permit is lapsed, including the 30-day grace period.

8.3(3) The board may reinstate the permit upon payment of the proper renewal fee and a penalty as provided in rule 193A—12.1(542). A written statement outlining the firm's professional activities during the period of lapsed licensure is needed in this context.

8.3(4) The board may find probable cause to file charges for unlicensed practice if the firm continues to offer services defined as the practice of accounting while using the title “LPAs” or “LPA firm” during the period of lapsed licensure.
[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—8.4(542) Notice to the board. A holder of or an applicant for a permit will notify the board in writing within 30 days in compliance with 542.8(15)

193A—8.5(542) Noncompliance. A firm which, after receiving or renewing a permit, is not in compliance with Iowa Code section 542.8 as a result of a change in firm ownership or personnel will take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board will result in the suspension or revocation of the firm permit.
[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—8.6(542) Peer review obligations. Firm peer review is necessary as per 542.7(8)
[ARC 7715B, IAB 4/22/09, effective 7/1/09]

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	1136
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	7
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	9	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 9 provides useful information on Substantial Equivalency and license by Reciprocity. These paths streamline the process for those seeking licensure in other jurisdictions.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved through information on when licensure may or may not be required and the application components.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support

this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—9.1(542) Iowa CPA certificate necessary.

193A—9.2(542) Application forms

193A—9.3(542) Background and character.

193A—9.4(542) Verification of state licensure.

193A—9.6(542) Continuing obligations.

193A—9.7(542) Expedited application processing

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 9
RECIPROCITY AND SUBSTANTIAL EQUIVALENCY

193A—9.1(542) Iowa CPA certificate necessary. A person who holds a certificate or license to practice as a CPA in another state or a substantially equivalent designation from a foreign jurisdiction may apply to the board for an Iowa CPA certificate

and has to do so if the person plans to establish the person's principal place of business as a CPA in Iowa.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.2(542) Application forms. Application forms may only be completed and submitted through the online application process. An applicant will attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee is charged to each applicant as provided in 193A—Chapter 12.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—9.3(542) Background and character.

9.3(1) An applicant for a CPA certificate under this chapter will disclose on the application all background and character information requested by the board including, but not limited to:

a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, or a substantially equivalent designation from a foreign country;

b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

c. Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation;

d. The conviction of any felony or any crime described in Iowa Code section 542.5(2);

e. The revocation of a professional license of any kind in this or any other jurisdiction; and

f. Such additional information as the board may request to determine if grounds exist to deny certification under 193A—subrule 3.1(2).

9.3(2) The board may deny an application based on prior discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation, or on any of the grounds listed in 193A—subrule 3.1(2).

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.4(542) Verification of state licensure. An applicant holding a CPA certificate or license from another state or states will submit verification that the applicant's CPA certificate or license is valid and in good standing in the state in which the applicant's principal place of business is located. An applicant applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1) "a" and paragraph 9.5(1) "a" may attach a letter of good standing to the application. Such letter of good standing will be prepared by the state in which the applicant's principal place of business is located and be dated within six months of the date of the application. To expedite the application process, the board will accept verification from another state's board by facsimile or email. The board reserves the right to request an original verification document directly from another state board.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.5(542) Qualifications for a CPA certificate.

9.5(1) A person who holds in good standing a valid CPA certificate or license from another state is deemed qualified for an Iowa CPA certificate if the person satisfies one of the following three conditions:

a. *Substantially equivalent state.* The licensing standards on education, examination and experience of the state which issued the applicant's CPA certificate or license were, at the time of licensure, comparable or superior to the education, examination and experience obligations of Iowa Code chapter 542 in effect at the time the application is filed in Iowa. The board may accept the determination of substantial equivalency made by the National Association of State Boards of Accountancy or may make an independent determination of substantial equivalency.

b. *Individual substantial equivalency.* The applicant's individual qualifications on education, examination and experience are comparable or superior to the education, examination and experience obligations of Iowa Code chapter 542 in effect at the time the application is filed in Iowa.

c. *"Four-in-ten rule."* The applicant satisfies all of the following:

(1) The applicant passed the examination necessary for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state.

(2) The applicant has had at least four years of experience within the ten years immediately preceding the application which occurred after the applicant passed the examination upon which the CPA certificate or license was based and which in the board's opinion is substantially equivalent to the obligations set forth in Iowa Code section 542.5(12).

(3) If the applicant's CPA certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing professional education mandates as described in Iowa Code section 542.6(3) and 193A—Chapter 10.

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is

substantially equivalent to an Iowa CPA certificate is deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the prerequisites for that certificate, license or foreign designation are comparable or superior to those needed for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation is needed to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the applicant will need to pass the uniform certified public accountant examination designed to test the applicant’s knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), New Zealand Chartered Accountant, Scottish Chartered Accountant, or South African Chartered Accountant, the applicant may be obligated to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

9.5(3) An applicant seeking an Iowa CPA certificate based on the provisions of 9.5(1)“b.” 9.5(1)“c” or 9.5(2) will submit such supporting information on education, examination or experience as the board deems reasonable to determine whether the applicant qualifies for licensure in Iowa.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 2719C**, IAB 9/28/16, effective 11/2/16; **ARC 4243C**, IAB 1/16/19, effective 2/20/19; **ARC 6123C**, IAB 1/12/22, effective 2/16/22]

193A—9.6(542) Continuing obligations. A person issued a CPA certificate under this chapter is subject to all laws and rules governing persons holding CPA certificates issued in this state including, without limitation, those concerning continuing education, peer review, and notification of crimes and professional discipline. However, a person issued a CPA certificate under this chapter who maintains the principal place of business in a different state and who maintains in good standing a valid CPA certificate or license in that state is deemed to have satisfied the continuing education and peer review obligations described in 193A—Chapters 10 and 11 if the person satisfies similar obligations in the state in which the principal place of business is located.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—9.7(542) Expedited application processing. A person applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1)“a” often desires expedited application processing to facilitate cross-border practice. Applications by such persons are especially suitable for rapid processing given the substantially equivalent standards previously enforced in another state. Unless such application reveals grounds to deny the application under subrule 9.3(2), the board is otherwise aware of such grounds, or the application is unaccompanied by the proper fee, the board’s administrator will approve an application which qualifies under Iowa Code section 542.19(1)“a” as rapidly as feasible and deem the effective date of approval to practice in Iowa to be the date the board received the completed application with timely letter of good standing in a substantially equivalent state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	58
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	23

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	11
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	10	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for CPAs and LPAs. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that accountants maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that accountants meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them provide the best expertise to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses and some companies offer continuing ed for free as a benefit of employment. Additional research indicates a range \$0 - \$4200 every three years. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer

supports the full scope of work of this board at approximately 0.31 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states manage continuing education programs with the same hours required per renewal cycle.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Accountancy Cont. Ed. Comparison						
Regulatory Analysis						
Iowa	Nebraska	Minnesota	Illinois	Missouri	South Dakota	Kansas
120 hours triennial	80 hours biennial	120 hours triennial	120 hours triennial	40 annually	120 hours triennial	80 hours biennial
4 hours ethics	4 hours ethics	8 hour ethics	4 hours ethich	2 hours ethcis	zero ethics	2 hours ethics

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—10.1(542) Scope.

193A—10.2(542) Definitions.

193A—10.3(542) Applicability

193A—10.4(542) Cost of continuing professional education.

193A—10.5(542) Basic continuing professional education requirement.

193A—10.6(542) Measurement standards.

193A—10.7(542) Mandatory education required.

193A—10.8(542) Programs that qualify and CPE limitations.

193A—10.9(542) Controls and reporting.

193A—10.11(272C,542) Alternative continuing education cycles authorized.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 10
CONTINUING EDUCATION
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—10.1(542) Scope. The right to use the title “Certified Public Accountant” and “Licensed Public Accountant” is regulated in the public interest and imposes a duty on accounting professionals to maintain public confidence and current knowledge, skills, and abilities in all areas of services. CPAs and LPAs have to accept and fulfill their ethical responsibilities to the public and the profession regardless of their fields of employment.

10.1(1) The development of professional competence involves a continued commitment to learning and professional improvement. A CPA and an LPA performing professional services need to have a broad range of knowledge, skills and abilities. A program that promotes professional competence in the practice of accountancy is defined as one that refers to the process, methods, or principles of accounting or is directly related to the CPA’s and LPA’s employment and is above the level of the CPA’s and LPA’s current knowledge.

10.1(2) Acceptable subjects for continuing professional education include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including nontechnical professional skills, may be approved by the board if they maintain or improve CPAs’ and LPAs’ competence in their current employment.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.2(542) Definitions. The following definitions apply to the rules of this chapter.

“*Continuing professional education (CPE)*” means education that is acquired by a licensee in order to maintain, improve, or expand skills and knowledge present at initial licensure or to develop new and relevant skills and knowledge.

“*Firm meeting*” means a formally arranged gathering/assembly of staff or management groups or both to inform them of administrative matters.

“*Formal program*” means a structured learning activity based on clearly defined learning objectives and outcomes that articulate achievable knowledge, skills and abilities.

“*In-house or on-site training*” means a formally organized professional educational program sponsored by the employer.

“*Live instruction*” means an educational program delivered in a classroom setting or through videoconferencing whereby the instructor and student carry out essential tasks while together. Examples include distance learning and Webcasts.

“*Nontechnical professional skills*” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that indirectly relate to the holder’s field of business. “Nontechnical professional skills” includes, but is not limited to, the following programs or courses:

1. Communication;
2. Interpersonal management;
3. Leadership and personal development;
4. Client and public relations;
5. Practice development;
6. Marketing;
7. Motivational and behavioral; and
8. Speed reading and memory building.

“*Qualified instructor*” means an individual whose training and experience adequately prepares the individual to carry out specified training assignments.

“*Self-study*” means a computer-generated program or written materials or exercises intended for self-study which do not include simultaneous interaction with an instructor but do include tests transmitted to the provider for review and grading.

“*Technical professional skills*” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that directly relate to the holder’s field of business. “Technical professional skills” includes, but is not limited to, the following programs or courses:

1. Auditing standards or procedures;
2. Compilation and review of financial statements;
3. Financial statement preparation and disclosures;
4. Attestation standards and procedures;
5. Projection and forecast standards or procedures;
6. Accounting and auditing;
7. Management advisory services;
8. Personal financial planning;
9. Taxation;
10. Management information systems;
11. Budgeting and cost analysis;
12. Asset management;
13. Professional ethics;
14. Specialized areas of industry;
15. Human resource management;
16. Economics;
17. Business law;
18. Mathematics, statistics and quantitative applications in business;
19. Business management and organization;
20. General computer skills, computer software training, information technology planning and management;
21. Operations management, inventory, and production; and
22. Negotiation or dispute resolution.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.3(542) Applicability. Completion of continuing professional education is a condition precedent to the renewal of the certificate or license.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.4(542) Cost of continuing professional education. All costs of completing continuing professional education are

the responsibility of the certificate holder or license holder wishing to maintain registration in this state.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.5(542) Basic continuing professional education.

10.5(1) Except as provided in subrules 10.5(2) to 10.5(7), an applicant for renewal will have completed 120 hours of qualifying continuing professional education during the three-year period ending on the December 31 or June 30 preceding the July 1 renewal date of the certificate or license. The following conditions apply:

a. On each renewal, a CPA or LPA self-selects December 31 or June 30 as the date by which continuing education will be completed in order to be eligible to renew the certificate or license.

b. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa.

c. Licensees maintain continuing education records in a manner that corresponds with the self-selected continuing education deadline of December 31 or June 30.

d. When declaring a June 30 continuing education deadline, licensees should be cautious to ensure that the continuing education is fully completed on or prior to the date the renewal application is submitted to the board.

e. Licensees who renew with penalty during the 30-day grace period following June 30 need to declare either December 31 or June 30 as the continuing education deadline. The deadline cannot be extended beyond June 30.

10.5(2) At the first annual renewal date of July 1 that is less than 12 months from the date of filing of the initial application for the certificate or license, the certificate holder or license holder is not required to report continuing professional education.

10.5(3) At the annual renewal date of July 1 that is 12 months or more than 12 months, but less than 24 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder will report 40 hours of continuing professional education earned in the one-year period ending December 31 or June 30 prior to the July 1 renewal date.

10.5(4) At the annual renewal date of July 1 that is 24 months or more than 24 months, but less than 36 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder will report 80 hours of continuing professional education earned in the two-year period ending December 31 or June 30 prior to the July 1 renewal date.

10.5(5) A licensee is deemed to have completed continuing education under this rule if, for the period that the licensee is a resident of another state or district having a continuing professional education obligation, the licensee met the resident state's mandatory continuing professional education.

10.5(6) The board may make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions may be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section 272C.2(4) for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception on other grounds of undue hardship can submit an application for waiver as provided in 193—Chapter 5.

10.5(7) Licensees who apply to reinstate a lapsed or inactive certificate or license to active status pursuant to 193A—subrule 5.6(3) or 5.9(7) needs to satisfy 120 hours of continuing professional education earned in the preceding three-year period prior to the date of the application, including all mandatory education described in rule 193A—10.7(542). Once the certificate or license is reinstated, the continuing education obligations apply at each subsequent renewal. The 120-hour obligation described in this subrule is modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(2) to 10.5(4).

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 1360C, IAB 3/5/14, effective 4/9/14; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 4243C, IAB 1/16/19, effective 2/20/19; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—10.6(542) Measurement standards. The following standards will be used to measure the hours of credit to be given for qualifying continuing professional education programs completed by individual applicants:

10.6(1) Credit is measured with one 50-minute period equaling one contact hour of credit. Half-hour credits may be allowed (equal to not less than 25 minutes) after the first hour of credit has been earned.

10.6(2) Only class hours or the equivalent, and not student hours devoted to preparation, will be counted.

10.6(3) Credit expressed as continuing education units (CEUs) will be counted as ten contact hours for each continuing professional education unit. (.1 CEU = 1 CPE)

10.6(4) Service as lecturer or discussion leader of continuing professional education programs will be counted to the extent that this service contributes to the applicant's professional competence.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.7(542) Mandatory education.

10.7(1) Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on behalf of a firm will complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. The financial statement presentation continuing education has to be completed within the three-year period ending on the December 31 or June 30 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) has to be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour may be claimed toward satisfaction of this subrule.

10.7(2) Every CPA certificate holder or LPA license holder needs to complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. For a course to qualify to satisfy this subrule, the course description will clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in rule 193A—10.6(542), measurement standards, specifically in subrule 10.6(1), needs to be devoted to business or professional ethics. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour may be claimed toward satisfaction of this subrule. Ethics courses, which are defined as courses dealing with regulatory and behavioral ethics, are limited to courses on the following:

- a.* Professional standards;
- b.* Licenses and renewals;
- c.* SEC oversight;
- d.* Competence;
- e.* Acts discreditable;
- f.* Advertising and other forms of solicitation;
- g.* Independence;
- h.* Integrity and objectivity;
- i.* Confidential client information;
- j.* Contingent fees;
- k.* Commissions;
- l.* Conflicts of interest;
- m.* Full disclosure;
- n.* Malpractice;
- o.* Record retention;
- p.* Professional conduct;
- q.* Ethical practice in business;
- r.* Personal ethics;
- s.* Ethical decision making; and
- t.* Corporate ethics and risk management as these topics relate to malpractice and relate solely to the practice of

certified public accounting.

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—10.8(542) Programs that qualify and CPE limitations.

10.8(1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual certified or licensed in this state. It will be left to each individual certificate holder or license holder to determine the technical or nontechnical professional skills courses of study to be pursued. Thus, the auditor may study accounting and auditing, the tax practitioner may study taxes, and the management advisory services practitioner may study subjects related to such practice. Job-related continuing professional education qualifies as acceptable provided the courses selected from nontechnical professional skills contribute to the professional competence of the certificate holder or license holder.

10.8(2) Program standards have to include the following:

- a.* Learning activities based on clearly defined, relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants.
- b.* Learning activities developed in a manner consistent with the prerequisite education, experience, and advanced preparation of the participants.
- c.* Activities, materials, and delivery systems that are current, technically accurate, and effectively designed.

Providers, sponsors, or contractors that are competent in the subject matter. Competence may be demonstrated through practical experience or education.

d. Learning programs that are reviewed by qualified persons other than those who develop the program to ensure that the program is technically accurate and current and addresses the stated learning objectives. This standard is waived for single presentations such as lectures that are given once.

10.8(3) Continuing professional education programs will qualify only if:

a. An outline of the program is prepared in advance and preserved.

b. The program is at least one hour (50-minute period) in length.

c. The program is conducted by a qualified instructor, discussion leader or lecturer. A qualified instructor, discussion leader or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.

d. A record of attendance or certification of completion or transcript is maintained.

10.8(4) The following programs are deemed to qualify provided all other standards of this rule are met.

a. Professional development programs of recognized national and state accounting organizations.

b. Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

c. Formally organized in-house or on-site educational programs provided by the certificate holder's or license holder's employer.

d. Distance learning programs or group study Webcast programs.

e. University or college courses meet the continuing professional education obligations of those attending.

Each semester hour is equal to 15 contact hours of credit. Each quarter hour is equal to 10 contact hours of credit.

f. Technical or nontechnical sessions offered by employers in business and industry, as well as firms of certified public accountants.

10.8(5) Formal correspondence and formal self-study programs contributing directly to the professional competence of an individual that obligate the licensee to register and provide evidence of satisfactory completion will be considered for credit. The amount of credit to be allowed for correspondence and formal self-study programs (including tested study programs) will be recommended by the program sponsor and based upon appropriate "field tests" and will not exceed 50 percent of the renewal obligation. A licensee claiming credit for correspondence or formal self-study courses will obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

10.8(6) Credit may be allowed for self-study programs on the basis of one hour of credit for each 50 minutes spent on the self-study program if the developer of such programs is approved by either the national continuing professional education registry or by the NASBA continuing education registry and the program sponsor has not designated the amount of credit to be claimed for completing the course of study. The licensee has to estimate the equivalent number of hours and justify the amount of hours claimed. The maximum credit will not exceed 50 percent of the renewal obligation. Credit will be allowed in the renewal period in which the course is completed.

10.8(7) The credit allowed an instructor, discussion leader, or speaker will be on the basis of two hours for subject preparation for each hour of teaching. Credit for teaching college or university coursework may be claimed for courses taught above the elementary accounting or principles of accounting level. Repetitious presentations will not be considered. The maximum credit for such preparation and teaching will not exceed 50 percent of the renewal period obligation.

10.8(8) Credit may be awarded for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period obligation. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that the licensee believes justify additional credit.

10.8(9) Credit may be allowed for the successful completion of professional examinations as detailed below. Credit is calculated at the rate of five times the length of each examination, which is presumed to include all preparation time, claimed in the calendar year of the examination, and limited to 50 percent of the total renewal obligation.

a. Certified Management Accountant/CMA.

b. Certified Information Systems Auditor/CISA.

c. Certified Information Technology Professional/CITP.

d. Certified Financial Planner/CFP.

e. Enrolled Agent/EA.

f. Certified Governmental Financial Manager/CGFM.

g. Certified Government Auditing Professional/CGAP.

h. Certified Internal Auditor/CIA.

i. Accredited Business Valuation/ABV.

j. Certified Financial Forensics/CFF.

- k. Certified Valuation Analyst/CVA.
- l. Certified Insolvency & Restructuring Advisor/CIRA.
- m. Forensic Certified Public Accountant/FCPA.
- n. Certified Fraud Examiner/CFE.
- o. Certified Business Analyst/CBA.
- p. Certified Trust and Financial Advisor/CTFA.
- q. Chartered Financial Analyst/CFA.
- r. Registered Representative, Series 6 and 7 and other examinations.
- s. Registered Investment Advisor/RIA.
- t. Certified Forensic Accountant/CrFA.
- u. Personal Financial Specialist/PFS.
- v. Chartered Life Underwriter/CLU.
- w. Fellow of the Society of Actuaries/FSA.
- x. Chartered Property & Casualty Underwriter/CPCU.
- y. Fellow Life Management Institute/FLMI.
- z. Other similar examinations approved by the board.

10.8(10) Firm meetings for staff or management groups for the purpose of administrative and firm matters do not meet the standards set forth in subrule 10.8(1).

10.8(11) Dinner, luncheon and breakfast meetings of recognized organizations may qualify if they meet the appropriate standards and are limited to 25 percent of the total renewal obligations if the individual meeting is no more than two hours long.

10.8(12) Continuing professional education taken in nontechnical skills area as defined in rule 193A—10.2(542) is limited to 50 percent of the total renewal obligation.

10.8(13) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

10.8(14) The right is specifically reserved to the board to approve or deny credit for continuing professional education claimed under these rules.

[**ARC 9002B**, IAB 8/11/10, effective 1/1/11]

193A—10.9(542) Controls and reporting.

10.9(1) An applicant for renewal may be requested to provide, in such manner, including but not limited to the online renewal process, and at such time as set forth by the board, verification and documentation setting forth the continuing professional education in which the licensee has participated. The board may allow for attestation that the licensee has completed continuing education in lieu of providing a listing. If the applicant for renewal is requested to provide a listing of the continuing professional education completed, the documentation will include:

- a. School, firm or organization conducting the course and contact information.
- b. Location of course.
- c. Title of course or description of content.
- d. Principal instructor.
- e. Dates attended.
- f. Hours claimed.
- g. Certificate of completion.
- h. Name of participant.
- i. Course field of study.
- j. Type of instruction or delivery method.
- k. Amount of CPE recommended.
- l. Verification by CPE program sponsor representative.

Canceled checks and registration forms are NOT proof of attendance.

10.9(2) Sponsors of courses may be requested to furnish an attendance record, a certification of completion or any other information the board deems essential for administration of these continuing professional education rules.

10.9(3) The board will verify, on a test basis, information submitted by licensees. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

10.9(4) Primary responsibilities for documenting the continuing education compliance is with the licensee, and such documentation has to be retained for a period of three years subsequent to submission of the report claiming the credit. (Refer to 193A—subrule 14.3(1) and Iowa Code section 542.10(1)(a), which provides for permanent revocation based on fraud or deceit in procuring a license.) Satisfaction of the obligations, including retention of attendance records, certification of completion records, and written outlines, may be accomplished as follows:

- a. For courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, will be obtained by the licensee.
- b. For correspondence and formal independent self-study courses, written evidence or a certificate of completion from the sponsor or course provider will be obtained by the licensee.
- c. In all other instances, the licensee will maintain a record of the information as listed in subrule 10.8(3).
[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—10.10(542) Grounds for discipline. A licensee or an applicant is subject to discipline, including permanent revocation, if the licensee or applicant provides false information to the board in connection with an application to renew or reinstate a certificate or license. A licensee or an applicant is also subject to discipline if the licensee or applicant is unable to document the continuing professional education hours reported to the board in connection with an audit or other request for documentation. False information of this nature will subject the licensee or applicant to discipline whether the false information was supplied intentionally or with reckless disregard for the truth or accuracy of the number of hours claimed. Licensees and applicants are accordingly cautioned to supply the board with accurate continuing professional education information.
[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.11(272C,542) Alternative continuing education cycles authorized.

10.11(1) Purpose. For a variety of reasons, some CPAs and LPAs may wish to complete their continuing education on a three-year cycle ending on a date other than December 31. By way of illustration, some licensees may prefer to take courses on particular substantive topics that are not always offered at the same time each year. Some licensees may wish to schedule continuing education to comply with the differing obligations of multiple jurisdictions. This rule is intended to authorize a more flexible time frame within which continuing education may be satisfied. This rule does not alter any other requirement of this chapter.

10.11(2) Declaration may vary by renewal cycle. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa. Licensees are expected to maintain continuing education records in a manner that complies with the self-selected declaration in any particular renewal cycle.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	38
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	79

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	6
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	11	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 11 covers peer review, a function to occasionally review the practice of licensees for quality assurance. This quality assurance helps provide the best possible services for Iowans.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved because peer reviews are conducted by outside parties with experience in the practice.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public. Costs to the CPA individual or firm for peer review vary, based on the size of the firm, from \$250 (for an individual) to \$2,000 (for a firm of 50). For very large firms with diversified audit practices, peer review can cost approximately \$25,000. Peer review is required every three years.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this

effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—11.1(542) Peer review obligations.

193A—11.2(542) Three-year cycle.

193A—11.3(542) System of internal quality control.

193A—11.4(542) Peer review programs that qualify

193A—11.5(542) Waiver of peer review.

193A—11.6(542) Submission of peer review reports

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 11
PEER REVIEW

[Prior to 5/1/02, see 193A—Chapter 17]

193A—11.1(542) Peer review obligations. As a condition of renewal for a CPA or LPA who issues compilation reports other than through a CPA or LPA firm that holds a permit to practice, and as a condition of permit renewal for LPA firms that issue compilation reports or CPA firms which provide attest services or issue compilation reports, the applicant shall submit certification of completion of a peer review issued pursuant to this chapter. Such review needs to be completed at the highest level of service provided by the firm or licensee. The performance of preparation services under SSARS 21 does not alone subject a firm or individual to peer review, although if a firm or individual is otherwise subject to peer review, the reviewer may include preparation services in the scope of practices reviewed.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15]

193A—11.2(542) Three year cycle. A peer review needs to be completed during the three-year period ending December 31 preceding the application for renewal of a certificate, license, or permit to practice, the individual licensee or firm and complete subsequent peer reviews at least every three years.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—11.3(542) System of internal quality control. If the firm has not performed any attest or compilation services prior to the application for renewal, the firm will have in place a system of internal quality control prior to the commencement of an engagement including attest or compilation services and come into compliance with the peer review obligations within 18 months of completion of an engagement including attest or compilation services.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15]

193A—11.4(542) Peer review programs that qualify. A firm’s completion of a peer review program endorsed or supported by the AICPA, National Society of Accountants or other substantially similar review programs in Iowa or other states approved by the board satisfies this chapter.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—11.5(542) Waiver of peer review. At the time of renewal, a licensee or firm may request a waiver from this chapter , as provided in Iowa Code sections 542.7(9) and 542.8(19).

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—11.6(542) Submission of peer review reports. Unless the subject of a peer review timely objects in writing to the administering entity of the peer review program, the administering entity will make available to the board within 30 days of the issuance of the peer review acceptance letter the final peer review report or such peer review records as are designated by the peer review program in which the administering entity participates. The subject of a peer review may voluntarily submit the final peer review report directly to the board.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	16
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	12

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report

(Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	3
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	12	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 12 provides helpful information to licensees on the various fees associated with acquiring and maintaining an Iowa accountancy license.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by offering detailed information on individual and firm licensure.

What are the costs incurred by the public to comply with the rule?

The licensees pay the fees as outlined below.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff compensation to ensure correct fees are being levied.

Do the costs justify the benefits achieved? Please explain.

The costs contribute to helping maintain the highest quality of accounting service to Iowans.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Accountancy Fee Comparison	Iowa	Nebraska	Minnesota	Illinois	Missouri	South Dakota	Kansas
Regulatory Analysis							
Original issuance of CPA certificate or LPA license by	\$100	\$100	\$150	\$120	\$90	\$50	\$165/\$82.50

examination (fee includes wall certificate)								
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100	\$200	\$150	n/a	\$165	\$50	\$250	
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50	n/a	n/a	n/a	\$25	n/a	\$50	
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50	n/a	n/a	n/a	\$25	n/a	\$25	
Original issuance of attest qualification	\$100	n/a	n/a	n/a	n/a	n/a	n/a	
Annual renewal of CPA certificate or LPA license—active status	\$100	\$175 biennially	\$100	\$40	\$80 biennially	\$50	\$247.60/\$165	
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25	n/a	\$50	n/a	\$50	n/a	n/a	
Annual renewal of CPA certificate or LPA license—inactive status	\$50	\$70 biennially	\$25	n/a	\$50 biennially	\$50	n/a	
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10	n/a	n/a	n/a	n/a	n/a	n/a	
Penalty for failure to comply with continuing education requirements	\$50 to \$250	n/a	n/a	n/a	n/a	n/a	n/a	
Original issuance of firm permit to practice	\$100	\$50	\$100	\$120	\$90	\$50	\$100	
Annual renewal of firm permit to practice	\$100	\$25	\$35	\$40	\$90 annually	\$50	\$100	

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—12.1(542) Fees.

193A—12.2(542) Reinstatement.

193A—12.3(542) Prorating of certain fees

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 12

FEEES

[Prior to 7/13/88, see Accountancy, Board of[10]]

[Prior to 5/1/02, see 193A—Chapter 14]

193A—12.1(542) Fees. The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	not to exceed \$1500
Reexamination:	
Paid directly to CPA examination services	not to exceed \$1500
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	\$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Annual renewal of CPA certificate or LPA license—active status	\$100
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25
Annual renewal of CPA certificate or LPA license—inactive status	\$50
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10
Original issuance of firm permit to practice	\$100
Annual renewal of firm permit to practice	\$100
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration

Interstate Transfer Form	\$25
License predetermination fee	\$25

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 8866B**, IAB 6/30/10, effective 8/4/10; **ARC 8867B**, IAB 6/30/10, effective 8/4/10; **ARC 9040B**, IAB 9/8/10, effective 10/13/10; **ARC 9327B**, IAB 1/12/11, effective 2/16/11; **ARC 5562C**, IAB 4/21/21, effective 5/26/21]

193A—12.2(542) Reinstatement.

12.2(1) Reinstatement of a lapsed CPA certificate or LPA license. The fee for the reinstatement of a lapsed CPA certificate or LPA license is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

12.2(2) Reinstatement of lapsed firm permit to practice. The fee for the reinstatement of a lapsed CPA or LPA firm permit to practice for applications is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

12.2(3) Applicants for reinstatement. All applicants for reinstatement will be assessed the \$100 reinstatement fee. The \$25 per month penalty fee described in subrules 12.2(1) and 12.2(2) will not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active CPA certificate, LPA license, or firm permit to practice as a CPA or LPA firm is necessary in Iowa. Falsely claiming an exemption from the monthly penalty fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 8867B**, IAB 6/30/10, effective 8/4/10; **ARC 9123B**, IAB 10/6/10, effective 11/10/10]

193A—12.3(542) Prorating of certain fees. Fees for the issuance of an original CPA certificate or LPA license, pursuant to rule 193A—5.3(542), or the issuance of an initial permit to practice to a CPA or LPA firm, pursuant to rule 193A—7.1(542), will not be prorated.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	19
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	6
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	13	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 13 provides information in the important area of ethical conduct for licensees. This is helpful to the licensees and members of the public who may be concerned about business associations with licensees.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved through providing comprehensive examples of what is and what is not acceptable in various areas of the practice of accountancy.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—13.1(542) **Applicability.**

193A—13.2(542) **Rules applicable to all CPAs and LPAs.**

193A—13.3(542) **Rules applicable to CPAs and LPAs who use the titles in offering or rendering products or services to clients.**

193A—13.4(542) **Audit, review and other attest services.**

193A—13.5(542) **Compilation.**

193A—13.6(542) **Rules applicable to tax practice.**

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 13
RULES OF PROFESSIONAL ETHICS AND CONDUCT

[Prior to 5/1/02, see 193A—Chapter 11]

193A—13.1(542) **Applicability.**

13.1(1) The AICPA code of professional conduct is based upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a board-regulated title relating to the practice of public accountancy imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the rules of professional ethics and conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action and a continued commitment to learning and professional improvement, to observe applicable generally accepted accounting principles and generally accepted auditing standards, to promote the public interest through sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all professional activities in whatever capacity performed.

13.1(2) In addition to the rules specifically enumerated herein, and only to the extent applicable to certificate holders' and licensees' respective scope of practice, all certificate holders and licensees are obligated to comply with the AICPA code of professional conduct. In the event of a conflict or inconsistency between the AICPA Code of Professional Conduct and rules specifically enumerated herein, the rules specifically enumerated herein prevail.

13.1(3) The rules of professional ethics and conduct apply to all professional services performed by all CPAs and LPAs whether or not they are engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is specifically limited to the practice of public accountancy.

13.1(4) A CPA or LPA engaged in the practice of public accountancy outside the United States will not be subject to discipline by the board for departing, with respect to such foreign practice, from any of the board's rules of professional ethics and conduct, so long as the CPA's or LPA's conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which the CPA or LPA is practicing. However, even in such a case, if a

CPA's or LPA's name is associated with financial statements in such manner as to imply that the CPA or LPA is acting as an independent public accountant and under circumstances that would entitle the reader of the financial statement to assume that United States practices are followed, the CPA or LPA will comply with applicable generally accepted engagement standards and applicable generally accepted accounting principles.

13.1(5) A CPA or LPA may be held responsible for compliance with the rules of professional ethics and conduct by all persons associated with the accountant in the practice of public accounting who are either under the accountant's supervision or are licensees, partners or shareholders in the accountant's practice.

13.1(6) CPAs and CPA firms exercising a practice privilege in Iowa or for a client with a home office in Iowa are subject to the professional standards set forth in this chapter.

13.1(7) These rules complement the grounds for discipline set out in 193A—Chapter 14.
[ARC 3230C, IAB 8/2/17, effective 9/6/17]

193A—13.2(542) Rules applicable to all CPAs and LPAs.

13.2(1) *Cooperation with board inquiry.* A CPA or LPA will, when requested, respond to communications from the board within 30 days

13.2(2) *Reporting convictions, judgments, and disciplinary actions.* In addition to any other reporting obligations in Iowa Code chapter 542 or these rules, a CPA or LPA needs to notify the board within 30 days of:

a. Imposition upon the CPA or LPA of discipline including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, or suspension, revocation or modification of a license, certificate, permit or practice rights by:

(1) The SEC, PCAOB, or IRS (by the Director of Practice); or

(2) Another state board of accountancy for cause other than failure to pay a professional fee by the due date or failure to complete continuing education obligations by another state board of accountancy; or

(3) Any other federal or state agency regarding the CPA's or LPA's conduct while rendering professional services; or

(4) Any foreign authority or credentialing body that regulates the practice of accountancy;

b. Occurrence of any matter reportable by the CPA or LPA to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) and PCAOB rules and forms adopted pursuant thereto;

c. Any judgment, award or settlement of a civil action or arbitration proceeding in which the CPA or LPA was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed firms will notify the board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in this state; or

d. Criminal charges, deferred prosecution or conviction or plea of no contest to which the CPA or LPA is a defendant if the crime is:

(1) Any felony under the laws of the United States or any state of the United States or any foreign jurisdiction;

or

(2) Any crime, including a misdemeanor, if an essential element of the offense is dishonesty, deceit or fraud, as more fully described in Iowa Code section 542.5(2).

13.2(3) *Firm's duty to report.* Each firm will designate a CPA or LPA as responsible for firm licensure or office registration and responsible for reporting any matter reportable under this rule.

13.2(4) *Solicitation or disclosure of CPA examination questions and answers.* A CPA or LPA who solicits or knowingly discloses a Uniform CPA Examination question(s) or answer(s) without the written authorization of the AICPA has committed an act discreditable to the profession.

13.2(5) *Falsely reporting continuing professional education (CPE).* A CPA or LPA has committed an act discreditable to the profession when the CPA or LPA falsely reports CPE credits to the board.

[ARC 3230C, IAB 8/2/17, effective 9/6/17]

193A—13.3(542) Rules applicable to CPAs and LPAs who use the titles in offering or rendering products or services to clients.

13.3(1) *Use of title.*

a. *Certified public accountant.* Only a person who holds an active, unexpired certificate and who complies with 193A—Chapter 5, Licensure Status and Renewal of Certificates and Licenses, and 193A—Chapter 10, Continuing Education, or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title "certified public accountant" or the abbreviation "CPA" or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device indicating that such person is a certified public accountant.

b. *Licensed public accountant.* Only a person holding a license as a licensed public accountant may use or

assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, word(s), letter(s), abbreviation(s), sign, card, or device indicating that such person is a licensed public accountant.

13.3(2) Forms of practice.

a. *Certified public accountant firms.* A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization has to apply for a permit to practice under Iowa Code section 542.7 and these rules as a firm of certified public accountants in order to use the title “CPAs” or “CPA firm,” as more fully described in 193A—Chapter 7.

b. *Licensed public accounting firms.* A sole proprietorship, corporation, partnership, limited liability company, or any other form of organization has to apply for a permit to practice under Iowa Code section 542.8 and these rules as a firm of licensed public accountants in order to use the title “LPAs” or “LPA firm,” as more fully described in 193A—Chapter 8.

13.3(3) Acting through others. A CPA or LPA is obligated to not allow others to carry out on the CPA’s or LPA’s behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional ethics and conduct.

[ARC 3230C, IAB 8/2/17, effective 9/6/17]

193A—13.4(542) Audit, review and other attest services.

13.4(1) Practice privilege. All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa has to be performed through a CPA firm that holds an active Iowa firm permit to practice or through an out-of-state CPA firm exercising a practice privilege in compliance with Iowa Code sections 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7. Unless Iowa certification is specifically mandated by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20. LPAs and LPA firms are not authorized to perform attest services.

[ARC 3230C, IAB 8/2/17, effective 9/6/17; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—13.5(542) Compilation.

13.5(1) Who can perform. Only a CPA licensed under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed under Iowa Code section 542.8, or any other applicable law or rule; or a CPA exercising a practice privilege under Iowa Code section 542.20 may issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (Refer to rule 193A—6.4(542).)

13.5(2) Peer review. All individuals described in 193A—subrule 6.4(1) will satisfy peer review obligations, individually or through a peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.

193A—13.6(542) Rules applicable to tax practice. CPAs, LPAs, and persons who are not CPAs or LPAs may perform tax services in Iowa. The rules of professional ethics and conduct in this chapter apply to any CPA or LPA who is licensed in Iowa and to any CPA exercising a practice privilege in Iowa whenever such person informs the client or prospective client that the person is a CPA or LPA. Clients may be so informed in a number of ways, including oral or written representations, the display of a CPA certificate or LPA license, or use of the CPA or LPA title in advertising, telephone or Internet directories, letterhead, business cards or email.

[ARC 3230C, IAB 8/2/17, effective 9/6/17]

These rules are intended to implement Iowa Code chapters 272C and 542.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	588
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	27

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	3
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	14	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 14 provides protection to Iowans because it publicly defines the board's disciplinary authority for accountants. This is important to both the public and to the licensee because it creates a shared understanding. When professional standards are not met it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by providing detailed information on the board's authority, and examples of what may be grounds for discipline.

What are the costs incurred by the public to comply with the rule?

There are no known costs to the public.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000 per offense.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.19 of an FTE. This additionally includes questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus

on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that Iowans receive professional services from competent practitioners.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—14.1(17A,272C,542) Disciplinary authority

193A—14.2(17A,272C,542) Disciplinary policy.

193A—14.3(17A,272C,542) Grounds for discipline.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 14
DISCIPLINARY AUTHORITY AND GROUNDS FOR DISCIPLINE

193A—14.1(17A,272C,542) Disciplinary authority. The board exercises disciplinary authority for the protection and well-being of those persons who rely on licensed individuals and firms for the performance of public accounting services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline, as authorized under Iowa law. [ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—14.2(17A,272C,542) Disciplinary policy.

14.2(1) The board's disciplinary policy rests upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting, and on the implication of professional competence inherent in the authorized use of a licensee's regulated title relating to the practice of public accountancy, imposes on persons and firms engaged in such practice certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence of thought and action; to strive continuously to improve one's professional skills; to observe, where applicable, generally accepted accounting principles, generally accepted auditing standards, and similar principles and

standards; to promote sound and informative financial reporting; to hold the affairs of clients in confidence; and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.

14.2(2) The public interest dictates that persons professing special competence in accountancy has demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence ; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles not be permitted.

14.2(3) A CPA or LPA firm is subject to discipline for its own violations of Iowa Code chapter 542 and administrative rules and the violations of the firm's CPAs, LPAs, nonlicensee owners, persons acting or purporting to act under a practice privilege, and others performing professional services on the firm's behalf. Whether a CPA or LPA firm will be charged based on the acts of such individuals will depend on the circumstances. Among the factors the board will consider are whether the firm took reasonable steps to prevent the violation, whether the violation was or could have been discovered by the firm upon reasonable inquiry, what steps the firm took upon discovering the violation, whether the acts or omissions involved licensees of the board or were committed by persons who are not individually licensed by the board, the nature of the services at issue, and whether the violations are isolated matters or more systemic to the firm's performance.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—14.3(17A,272C,542) Grounds for discipline. The board may initiate disciplinary action against a CPA or LPA, or a firm of CPAs or LPAs that holds an active, inactive or lapsed certificate, license or permit to practice on any of the following grounds:

14.3(1) *Fraud or deceit in procuring a license.* Fraud or deceit in procuring or attempting to procure an initial, reciprocal, renewal, or reinstated certificate, license, or permit to practice includes any intentional perversion of the truth when submitting an application to the board, or when submitting information in support of another's application to the board, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.
- b. Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, continuing education certificate, or verification of peer review.
- c. Failing or refusing to provide complete information in response to a question on an application.
- d. Reporting information, such as satisfaction of continuing education, peer review, or attest qualification, in a false manner through overt deceit or with reckless disregard for the truth or accuracy of the information asserted.
- e. Otherwise participating in any form of fraud or misrepresentation by act or omission.

14.3(2) *Professional incompetence.* Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the practice of public accounting.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimum standards of acceptable and prevailing practice of public accounting in this state.
- e. A willful, repeated, or material deviation from generally accepted engagement standards, generally accepted accounting standards, generally accepted auditing standards, or any other nationally recognized standard applicable to the public accounting services at issue.
- f. Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest.

14.3(3) *Deceptive practices.* Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of public accounting.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business or client records.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule or **193A—**

Chapter 18.

f. Knowingly presenting as one's own a certificate, license, or permit to practice, or a certificate, license, or permit number, or the signature of another or of a fictitious licensee, or otherwise falsely impersonating a person holding a CPA certificate or LPA license, or a permit to practice as a firm of CPAs or LPAs.

g. Representing oneself as a CPA, LPA, CPA firm, or LPA firm when the certificate, license, or permit to practice has been suspended, revoked, surrendered, or placed on inactive status, or has lapsed, except as allowed under Iowa Code section 542.20.

h. Fraud in representations as to skill or ability.

14.3(4) *Unethical, harmful or detrimental conduct.* Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of public accounting or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of public accounting would place the public at risk.

b. A violation of a rule of professional conduct relating to improper conflicts of interest, or lack of integrity, objectivity or independence, as provided in the AICPA code of professional conduct.

c. A violation of a provision of Iowa Code section 542.13, or aiding or abetting any unlawful activity for which a civil penalty can be imposed under Iowa Code sections 542.13 and 542.14.

14.3(5) *Lack of proper qualifications.* Lack of proper qualifications includes, but is not limited to:

a. Continuing to practice as a CPA or LPA without satisfying the continuing education necessary for certificate or license renewal.

b. Continuing to perform attest services or compilation services without timely completion of peer review.

c. Performing attest services as an individual without proper certification or attest qualification, or without acting through a CPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20.

d. Performing attest services as a firm without holding a permit to practice pursuant to Iowa Code section 542.7 or exercising a practice privilege pursuant to Iowa Code section 542.20, or without ensuring that the individuals responsible for supervising attest services or signing or authorizing someone to sign the accountant's report are attest qualified, hold the necessary certification or are eligible to exercise a practice privilege, or otherwise performing attest services in a manner inconsistent with Iowa Code chapter 542 or the rules of the board.

e. Habitual intoxication or addiction to the use of drugs, or impairment that adversely affects the CPA's or LPA's ability to practice in a safe and competent manner.

f. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications that are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b." or that impairs a practitioner's ability to safely and skillfully practice the profession.

14.3(6) *Negligence in the practice of public accounting.* Negligence in the practice of public accounting includes the following acts, practices, or omissions, whether or not injury results:

a. Failure or refusal without good cause to exercise reasonable diligence in the practice of public accounting.

b. A failure to exercise due care including negligent delegation of duties in the practice of public accounting.

c. Neglect of contractual or other duties to a client.

14.3(7) *Professional misconduct.* Professional misconduct includes, but is not limited to, the following:

a. Violation of a generally accepted engagement standard, generally accepted accounting standard, generally accepted auditing standard, or any other nationally recognized standard applicable to the public accounting services at issue, as provided in rule 193A—13.4(542), or any other violation of a provision of the AICPA code of professional conduct,

b. Violation of a regulation or law of this state, another state, the United States, or the PCAOB in the practice of public accounting.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation of a licensed or unlicensed firm, individual, or other entity, or failure to fully cooperate with a disciplinary investigation of a licensee or with an investigation of firms, individuals or other entities that are not licensed by the board, including, without limitation, failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 days

d. Revocation, suspension, or other disciplinary action taken against a licensee or person or firm exercising a practice privilege by a licensing authority of this state or another state, territory, or country. A stay by an appellate court does not negate the obligation to report such incidents to the board; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action will be vacated.

e. Suspension or revocation of the right to practice before any state or federal agency, or the PCAOB.

f. Violating Iowa Code section 542.17

g. Violating Iowa Code section 542.18

- h. Violating or aiding and abetting another’s violation of Iowa Code section 542.13 or 542.20.
- i. Violating the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.
- j. Violating a practice privilege afforded to an Iowa licensee in another state.
- k. Engaging in the practice of public accounting on a lapsed or inactive certificate, license or permit when the acts or practices obligates active Iowa licensure and, in the case of a firm, allowing such acts or practices by firm CPAs or LPAs.

14.3(8) *Willful or repeated violations.* The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542 or any administrative rule adopted by the board in the administration or enforcement of such chapters.

14.3(9) *Failure to report.*

- a. Failure by a CPA firm to timely report as provided in rule 193A—7.7(542).
- b. Failure of an LPA firm to timely report as provided in rule 193A—8.5(542).
- c. Failure to timely report judgments and settlements and reportable violations by others as provided in 193A—Chapter 18.
- d. Failure to report in writing to the board any issuance, denial, revocation, or suspension of a license by another state, or the voluntary surrender of a license to resolve a pending disciplinary investigation or action, within 30 calendar days of the licensing authority’s final action.
- e. Failure to report the conviction of any felony, or a crime described in Iowa Code section 542.5(2), within 30 calendar days of the conviction.
- f. Failure to report to the board a change in the licensee’s physical or mailing address within 30 calendar days of the change.
- g. Failure to report as provided in 193A—subrule 13.4(3) or as otherwise required in the AICPA code of professional conduct.

14.3(10) *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision imposing discipline.

14.3(11) *Conviction of a crime.* Conviction of any crime described in Iowa Code section 542.5(2) and as limited by Iowa Code 272C.10(5) is grounds for denial, revocation, or suspension of a license. “Conviction” includes any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, not entered, or suspended, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction is vacated.

14.3(12) *Conduct discreditable to the accounting profession.* Conduct discreditable to the accounting profession includes any act or practice that diminishes the public’s confidence in the profession, impairs the credibility of the profession, or otherwise compromises the public’s trust. While it is not possible to list all conduct that is discreditable to the accounting profession, the following list provides an illustrative range of acts or practices that are implicated:

- a. Dishonesty in business or financial affairs, or a pattern of fiscal irresponsibility.
- b. Placement on the sex offender registry.
- c. Securities fraud or violation of the Iowa consumer fraud Act.
- d. Willful or repeated failure to timely file tax returns or other tax documents.
- e. False testimony in a court or administrative proceeding, or affidavit, or otherwise under oath.
- f. Providing false or misleading information to a financial institution or governmental body or official.
- g. Stating or implying an ability to improperly influence a government agency or official, or attempting to do so through deception, bribery or other unlawful means.
- h. Violation of a breach of fiduciary duty when acting in the capacity of a trustee, conservator, or other fiduciary, or as the professional advisor to a fiduciary.
- i. Any violation of Iowa Code chapter 542 or administrative rules that involves dishonesty, bad faith, or unethical behavior.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	304
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	10
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	15	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 15 covers disciplinary investigations, highlighting the board’s process for resolving complaints against licensees.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by helping individuals understand how the board deals with complaints so that individuals may manage their expectations. Licensees benefit from a better understanding of what to expect should a complaint be filed against them.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—15.2(17A,272C,542) Initiation of disciplinary investigations.
193A—15.4(17A,272C,542) Conflict of interest.
193A—15.5(272C,542) Complaints.
193A—15.6(272C,542) Case numbers.
193A—15.7(272C,542) Confidentiality of complaint and investigative information.
193A—15.8(17A,272C,542) Investigation procedures.
193A—15.9(17A,272C,542) Informal discussion
193A—15.10(17A,272C,542) Closing complaint files.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A—15.1(17A,272C,542)
193A—15.3(272C,542) Sources of information.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 15
DISCIPLINARY INVESTIGATIONS

193A—15.1(17A,272C,542) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated a law or rule enforced by the board which, if true, would constitute grounds for licensee discipline. The board may also review the publicly available work product of licensees on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193A—15.2(17A,272C,542) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193A—15.3(272C,542) Complaints. Written complaints may be submitted by any means and by anyone.

15.3(1) Contents of a written complaint. Written complaints may be submitted through the online complaint process. Written complaints, whether submitted on a board complaint form or in other written medium, will contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).

c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.

d. If known, citations to the laws or rules allegedly violated by the respondent.

e. Evidentiary supporting documentation.

f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

15.3(2) Immunity. As provided by Iowa Code section 272C.8, a person is not civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor may an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

15.3(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding that may be initiated by the board.

15.3(4) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

15.3(5) Initial complaint review. . All written complaints received by the board are initially screened reviewed by the board's administrator. to determine whether the complaint allegations fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for licensee disciplinary action. Complaints that are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous, will be referred by the board administrator to the board for closure at the next scheduled board meeting.

[ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—15.4(272C,542) Case numbers. Complaint files are tracked by a case numbering system. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193A—15.5(272C,542) Confidentiality of complaint and investigative information.

15.5(1) General provisions. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information will not be released to any person except as provided in that section and this rule.

15.5(2) Confidentiality of PCAOB information and records.

a. The PCAOB was created by the Sarbanes-Oxley Act of 2002 (the Act) as a nonprofit corporation under the laws of the District of Columbia. The duties of the PCAOB include the registration of public accounting firms that prepare audit reports for public companies; the promulgation of rules (as approved by the SEC) for auditing, quality control, ethics, independence and other standards relating to the preparation of audit reports; the inspection of registered public accounting firms; the investigation of alleged standards violations; and the imposition of appropriate sanctions following disciplinary proceedings.

b. Pursuant to Section 105(b)(5)(A) of the Act and PCAOB rules, PCAOB investigatory information and records are confidential and privileged, and exempt from disclosure under the federal Freedom of Information Act. PCAOB, in its discretion, may share such information and records, along with the nonpublic sections of inspection reports, with state regulatory authorities as necessary to accomplish the purposes of the Act or to protect investors. As provided in Section 105(b)(5)(B) of the Act, state regulatory authorities also maintain such information and records as confidential and privileged, and the board will maintain that information as confidential.

15.5(3) Disclosure to the subject of the investigation.

a. **Legal authority.** Pursuant to Iowa Code section 546.10(9), the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

b. **General rule.** As a matter of general policy, the board will not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

c. **Exceptions to general rule.** The board may exercise its discretion to release information to a licensee that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to

the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee and prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review or investigative report or expert opinions, as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including investigations initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

(3) The board may release information from a peer review or consultant's report when the soliciting of the licensee's position will aid in making the probable cause determination and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

15.6 Subpoena authority. Pursuant to Iowa Code subsections 17A.13(1), 272C.6(3) and 542.11(1), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193A—15.7(17A,272C,542) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

15.7(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee may attend an informal discussion but is not compelled to do so. Because disciplinary investigations are confidential, a licensee is not permitted to bring persons other than legal counsel to an informal discussion. Where an allegation is made against a firm, the firm may be represented by a managing partner, member or other firm representative.

15.7(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion waives their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

15.7(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

15.7(4) The board may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193A—15.7(17A,272C,542) Closing complaint files.

15.8(1) Grounds for closing. the board may close a complaint file, with or without prior investigation. Given the broad scope of matters members of the public may complain about, it is not possible to catalog all possible reasons why the board may close a complaint file.

15.8(2) Closing orders. The board's administrator may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order will not contain the identity of the complainant or the respondent and will not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and is a public record pursuant to Iowa Code subsection 17.3(1)(d). A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

15.8(3) Cautionary letters. The board may issue a confidential letter of caution to a licensee when a complaint file is closed that informally cautions or educates the licensee about matters that could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

15.8(4) Reopening closed complaint files. The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1022
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	5
IAC #:	193A	Chapter/ SubChapter / Rule(s):	16	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 16 covers disciplinary proceedings, offering individuals and licensees useful information on the board's processes around complaint resolution.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by offering comprehensive information which helps individuals and licensees better understand the actions taken by the board.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—16.1(17A,272C,542) Initiation of disciplinary proceedings.

193A—16.2(17A,272C,542) Disciplinary contested case procedures.

193A—16.3(272C,542) Disciplinary sanctions.

193A—16.4(272C,542) NotificationPublication of decisions.

193A—16.5(272C,542) Reinstatement.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 16
DISCIPLINARY PROCEEDINGS

193A—16.1(17A,272C,542) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified will be excluded in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board constitutes a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—16.2(17A,272C,542) Disciplinary contested case procedures. Unless in conflict with a provision of Iowa Code chapter 542 or board rules in this chapter, all of the procedures set forth in 193—Chapter 7 apply to disciplinary contested cases initiated by the board.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—16.3(272C,542) Disciplinary sanctions.

16.3(1) Type of sanctions. The board has authority to impose the following disciplinary sanctions:

a. Revoke a license issued by the board. In the event of a revocation, the licensee is not allowed to remain a member, partner or shareholder of a business entity if the law dictates that all members, partners or shareholders of such an entity be actively involved.

b. Suspend a license issued by the board. A CPA or LPA who is under suspension will refrain, during the period of the suspension, from all facets of the ordinary practice of public accounting.

c. Revoke or suspend the privilege to engage in one or more areas of the practice of public accounting.

d. Impose a period of probation. As a condition to a period of probation, the board may impose terms and conditions deemed appropriate by the board which may include, but are not limited to, the following:

(1) The board may order the licensee to undergo a quality review or desk review under the board's supervision.

The licensee will select, subject to approval by the board, a CPA, LPA, or a firm of CPAs or LPAs. The review cost will be paid by the licensee. The board will be furnished a copy of the report issued by the reviewing party and may order remedial actions or education as a result of the report findings.

(2) The board may order the licensee to enter into an agreement with a CPA, an LPA, or a firm of CPAs or LPAs to obtain a preissuance review of any audits, compilations, or reviews issued by the licensee or other public accounting services performed during the probationary period. The agreement will be preapproved by the board. The board may order the licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any cost incurred in obtaining preissuance review will be paid by the licensee.

(3) A substance abuse evaluation and such care and treatment appropriate under the circumstances.

e. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely necessary for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a certificate, permit, license, or registration. The board may also specify that current reference materials be obtained and maintained.

f. Obligate the licensee to undergo reexamination, using one or more parts of the CPA or LPA examination given to candidates for the CPA certificate or the LPA license.

g. Civil penalties may be imposed as per 542.14(2).

h. Issue a reprimand.

i. Order the licensee to alter a professional practice or refrain from engaging in a particular act or practice in the future, notify clients of unlicensed or unprofessional conduct, or take such other remedial measures that are appropriate under the public interest and circumstances of the infraction.

j. Order such alternative discipline as is allowed by law.

16.3(2) *Imposing discipline.* Discipline may be imposed against a licensee only by the affirmative vote of a majority of the members of the board who are not disqualified.

16.3(3) *Voluntary surrender.* The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

16.3(4) *Client notification.* Whenever a license is revoked, suspended, under probation, or voluntarily surrendered under this chapter, the licensee will:

a. Within 30 days of receipt of the board's final order, notify in writing all clients of the fact that the license has been revoked, suspended or voluntarily surrendered or that the licensee is under probation and subject of compliance terms imposed by the board; for example, the licensee may agree to discontinue governmental audits while their license is under probation. Such notice will advise the client to obtain alternative professional services, unless probationary compliance terms at issue would not impact the public accounting services provided for that client;

b. Within 30 days of receipt of the board's final order, file with the board copies of the notices sent pursuant to paragraph 16.3(4) "a." Compliance with this subparagraph is a condition precedent for an application for reinstatement.

193A—16.4(272C,542) Notification of decisions.

16.4(1) The board will notify NASBA of disciplinary action taken against an Iowa licensee.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—16.5(272C,542) Reinstatement.

16.5(1) The term "reinstatement" as used in this rule and in rule 193—7.38(17A,272C) includes the reinstatement of a suspended license, the modification or removal of a probationary limitation on a licensee's practice, the issuance of a license following the denial of an application to renew a license, and the issuance of a new license following the revocation or voluntary surrender of a license.

16.5(2) Any person whose license has been revoked, suspended or under probation by the board, or who has voluntarily surrendered a license to conclude a disciplinary investigation or proceeding, or whose application to renew a license has been denied may apply to the board to modify or terminate the suspension, issue or reissue the license, or modify or remove the probationary limitations of practice in accordance with Iowa Code section 542.12, rule 193—7.38(17A,272C), the provisions of this rule, and the terms of the order of revocation, suspension or probation, denial of license renewal, or acceptance of voluntary license surrender.

16.5(3) If the applicable order did not establish terms upon which the licensee may apply for reinstatement, an initial application for reinstatement may be made after at least one year has elapsed from the date of the order that revoked, suspended

or placed under probation the license, denied license renewal, or accepted a voluntary surrender.

16.5(4) All proceedings for reinstatement are initiated by the respondent and subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant’s request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

16.5(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193A—16.3(272C,542).

16.5(6) The board will not grant an application for reinstatement when the initial order which revoked, suspended or placed under probation the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board’s satisfaction that:

- a. All terms of the sentencing or other criminal order have been fully satisfied;
- b. The applicant has been released from confinement and any applicable probation or parole; and
- c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	318
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	37

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	7
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	17	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 17 provides useful information on the board's options resolutions of complaints against non-licensees practicing accountancy.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by offering information for both individuals and licensees that will help them understand what action the board may or may not take.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support

this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—17.1(542) Civil penalties against nonlicensees.

193A—17.2(17A,542) Investigations.

193A—17.3(17A,542) Notice of intent to impose civil penalties.

193A—17.4(17A,542) Request for hearing.

193A—17.6(542) “Safe harbor” language

193A—17.7(542) Enforcement options

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A—17.5(542) Factors to consider.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 17
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

193A—17.1(542) Civil penalties against nonlicensees. The board may order compliance with Iowa Code chapter 542 and board rules, revoke a practice privilege, and impose civil penalties by order against a firm, other entity, or individual that is not licensed by the board pursuant to Iowa Code chapter 542, based on the unlawful practices specified in Iowa Code sections 542.13 and 542.20. In addition to the procedures set forth in Iowa Code section 542.14, this chapter applies.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—17.2(17A,542) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and Iowa Code section 542.11 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in 193A—Chapter 15. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—17.3(17A,542) Notice of intent to impose civil penalties. The notice of the board’s intent to issue an order to enforce compliance with Iowa Code chapter 542 and board rules and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty, the nature of the intended order to enforce compliance with Iowa Code chapter 542 and board rules, and whether a practice privilege will be revoked.
5. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing can be requested.
6. The address to send a written request for hearing.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—17.4(17A,542) Request for hearing.

17.4(1) Nonlicensees have 30 days to request a hearing. The 30-day timeframe begins on the date the notice is mailed if served through certified mail to the last-known address, or 30 days from the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing has to be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

17.4(2) If a request for hearing is not timely made, the board chairperson or the chairperson’s designee may issue an order imposing the civil penalty, revoking the practice privilege, and requiring compliance with Iowa Code chapter 542 and board rules, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

17.4(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

17.4(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty, revoking the practice privilege, and requiring compliance with Iowa Code chapter 542 and board rules at any stage of the proceeding upon mutual consent of the board.

17.4(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 193A—16.4(272C,542). Hearings are open to the public.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—17.5(542) “Safe harbor” language. Persons who do not hold a CPA certificate or LPA license, firms that do not hold a CPA or LPA firm permit to practice, or individuals or firms that are ineligible to exercise a practice privilege cannot use in any statement relating to the financial affairs of a person or entity language that is conventionally used by CPAs or LPAs in reports on financial statements. Pursuant to Iowa Code section 542.13(8), such persons or firms may use the following “safe harbor” language:

“I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners). I (we) have not audited, reviewed or compiled the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.”

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—17.6(542) Enforcement options. The board may also pursue other enforcement as provided in Iowa Code subsections 542.14(8) through (9) and section 542.15.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	121
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	13

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	5
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	18	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 18 covers the Duty to Report. The benefit is through providing the board with information regarding actions taken against the licensee from other parties. From that, the board can determine if board action is warranted.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by questioning licensees, through the license renewal process, on any action that may have been taken against them.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—18.1(272C,542) Reporting acts or omissions committed by licensees.

193A—18.2(272C,542) Reporting judgments and settlements alleging malpractice.

193A—18.3(272C,542) Timely reporting.

193A—18.4(272C,542) Failure to make reports.

RULES PROPOSED FOR REPEAL (list rule number[s]):

193A—18.5(272C,542) Professional resolution encouraged.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 18
LICENSEES' DUTY TO REPORT
[Prior to 5/1/02, see 193A—Chapter 15]

193A—18.1(272C,542) Reporting acts or omissions committed by licensees.

18.1(1) An individual or firm licensed by the board has a duty to report under Iowa Code section 272C.9(2). The failure to perform an engagement for a client in accordance with professional standards may demonstrate a lack of qualifications by a licensee or firm . These professional standards are set forth in 193A—Chapter 13.

18.1(2) When a licensee observes a an act or omission referenced in subrule 18.1(1), the licensee is obligated to report the violation in writing to the board office, setting forth the name of the licensee alleged to have committed the violation and the rule(s) violated, together with a copy of all material that evidences the violation.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—18.2(272C,542) Reporting judgments and settlements alleging malpractice.

18.2(1) Licensees have a duty to report under Iowa Code section 272C.9(3). For the purposes of this rule, malpractice actions brought against a firm licensed by the board will be deemed to have been brought against both the firm and the firm's owners (e.g., partners, shareholders, or members) that performed the services that led to the malpractice action.

18.2(2) When a licensee is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the licensee has an obligation to file a report in writing forwarded to the board office, setting forth the name and address of the client, the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—18.3(272C,542) Timely reporting. The reports under this chapter are to be forwarded to the board within 30 days from the initial receipt of the information giving rise to the reporting obligation..

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—18.4(272C,542) Failure to make reports. The board may initiate a disciplinary proceeding against any licensee who fails to make a timely report under this chapter.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	177
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	8
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	20 (will be renumbered as 19)	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa licensees and licensees from other jurisdictions enjoy a practice privilege outlined in Chapter 20, allowing licensees to practice in multiple states on one license. The chapter informs on the provisions of the privilege for individuals.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by offering detailed information on practicing in Iowa with an out-of-state license.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—20.1(542) Overview and timing.

193A—20.2(542) Out-of-state licensure status.

193A—20.3(542) When Iowa licensure may be necessary.

193A—20.4(542) Individuals ineligible for a practice privilege.

193A—20.5(542) Attest and compilation services.

193A—20.6(542) Rights and duties.

193A—20.7(542) Penalties.

193A—20.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 20
PRACTICE PRIVILEGE FOR OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTANTS

193A—20.1(542) Overview and timing. Out-of-state certified public accountants who maintain their principal place of business in a jurisdiction other than Iowa may practice public accounting in Iowa or for clients with a home office in Iowa without Iowa licensure if all of the conditions of Iowa Code section 542.20 and this chapter are satisfied.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—20.2(542) Out-of-state licensure status. The practice privilege described in Iowa Code section 542.20 applies to individuals who are licensed to practice as certified public accountants in the jurisdiction in which their principal place of business is located for those periods of time in which all of the following conditions are satisfied:

20.2(1) The out-of-state license is valid, in good standing, and active. The practice privilege ceases if the out-of-state license expires in the jurisdiction of the individual's principal place of business.

20.2(2) The individual meets the criteria for substantial equivalency reciprocity, as provided in Iowa Code section 542.19, subsection 1, paragraph "a," "b," or "c," and 193A—9.5(542).

20.2(3) The license authorizes in the individual's principal place of business all of the public accounting services the individual performs or offers to perform in Iowa or for clients with a home office in Iowa.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—20.3(542) When Iowa licensure may be necessary.

20.3(1) The auditor of state, the department of agriculture and land stewardship, other governmental official or body, or a client may mandate that an individual be licensed in Iowa as a condition of performing public accounting services in Iowa

or for a client with a home office in Iowa, whether or not the individual may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accountant is necessary, for example, to perform certain audit services described in Iowa Code chapter 11.

20.3(2) Iowa licensure is necessary if an individual has an office in Iowa at which the individual uses the title “CPA,” unless the individual satisfies the conditions for a practice privilege and one of the following is true:

a. The Iowa office is the office of an Iowa CPA or LPA firm that holds a permit to practice under Iowa Code section 542.7 or 542.8, and the individual provides public accounting services through that firm.

b. The Iowa office is the office of a business entity that is not obligated to hold a firm permit to practice under Iowa Code section 542.7 or 542.8, and the individual provides public accounting services through that business entity.

20.3(3) Iowa licensure is necessary if an individual moves the individual’s principal place of business to Iowa and is otherwise obligated to be licensed under Iowa Code chapter 542. The board’s streamlined application process for reciprocal licensure is described in Iowa Code section 542.19 and 193A—Chapter 9.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—20.4(542) Individuals ineligible for a practice privilege.

20.4(1) The practice privilege described in Iowa Code section 542.20 is not applicable if:

a. The individual has been convicted of a felony under the laws of any jurisdiction.

b. The individual has been convicted of any crime under the laws of any jurisdiction if an element of the crime involves dishonesty or fraud, such as forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or similar offense, as more fully described in Iowa Code section 542.5(2).

c. The individual’s license to practice public accounting has been suspended, revoked, or otherwise disciplined by a licensing authority in this or another state, territory, or country, for any cause other than failure to pay appropriate fees. “Disciplined” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding in Iowa or another jurisdiction.

d. The individual’s right to practice public accounting before any state or federal agency, or the PCAOB, has been suspended or revoked.

e. The individual has applied for licensure as a certified public accountant in Iowa or another jurisdiction and the application has been denied.

f. Civil penalties have been imposed against the individual pursuant to Iowa Code section 542.14.

g. The individual’s authority to exercise a practice privilege has been revoked in Iowa or another jurisdiction.

20.4(2) Individuals precluded from exercising a practice privilege under this rule may apply for licensure in Iowa if otherwise qualified. The board will determine when an application is submitted whether the criminal or disciplinary history or other regulatory action provides a ground to deny licensure.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09]

193A—20.5(542) Attest and compilation services.

20.5(1) Individuals providing compilation services in Iowa or for a client with a home office in Iowa need to comply with the peer review provisions of Iowa Code section 542.6(6), or provide such services through a CPA or LPA firm, or a substantially equivalent firm that holds a valid license in the firm’s principal place of business and that complies with the peer review and ownership provisions of Iowa Code section 542.7 or 542.8.

[**ARC 7715B**, IAB 4/22/09, effective 7/1/09; **ARC 0413C**, IAB 10/31/12, effective 12/5/12; **ARC 3422C**, IAB 10/25/17, effective 11/29/17]

193A—20.6(542) Rights and duties.

20.6(1) Individuals who satisfy the conditions for a practice privilege may practice public accounting in Iowa or for a client with a home office in Iowa in person, or by telephone, mail, or electronic means without licensure under Iowa Code chapter 542 or notice to the board.

20.6(2) Individuals lawfully practicing public accounting under a practice privilege may use the title “CPA” as long as they do not have an office in Iowa, except as provided in subrule 20.3(2).

20.6(3) Individuals practicing public accounting in Iowa or for a client with a home office in Iowa while exercising a practice privilege are subject to all of the following provisions:

a. Practice privilege practitioners are not allowed to make any representation tending to falsely indicate that the individuals are licensed under Iowa Code chapter 542. Such individuals may truthfully identify themselves as licensed in any jurisdiction in which they hold a valid, active, unexpired license to practice as a certified public accountant. For example, a practice privilege practitioner could not use the title “Iowa CPA” or otherwise state or imply licensure in Iowa, but, if true, the individual could use a title such as “CPA, licensed in Texas” or “Florida CPA.” Such individuals could also truthfully state that they are CPAs practicing under a practice privilege.

b. Practice privilege practitioners will provide, upon a client's or prospective client's request, accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

c. Practice privilege practitioners will comply with all professional standards, laws, and rules that apply to licensees performing the same professional services.

20.6(4) As a condition of exercising the practice privilege provided in Iowa Code section 542.20, the individual:

a. Consents to the personal and subject matter jurisdiction and regulatory authority of the board including, but not limited to, the board's jurisdiction to revoke the practice privilege or otherwise take action under Iowa Code section 542.14 for any violation of Iowa Code chapter 542 or board rules;

b. Appoints the regulatory body of the state that issued the license in the individual's principal place of business as the agent upon whom process may be served in any action or proceeding by the board against the individual;

c. Agrees to supply the board, upon the board's request and without subpoena, such information or records licensees are similarly obligated to provide the board under Iowa Code chapter 542, including but not limited to the information described in Iowa Code section 542.20, subsection 7, paragraph "c"; and

d. Agrees to promptly cease offering or providing public accounting services in Iowa or for a client with a home office in Iowa if the license in the individual's principal place of business expires or is otherwise no longer in good standing, or if any of the conditions for exercising the practice privilege are no longer satisfied, or if the board revokes the practice privilege.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—20.7(542) Penalties.

20.7(1) Individuals purporting to practice public accounting under a practice privilege who are ineligible to exercise a practice privilege or who fail to satisfy the conditions for exercising a practice privilege are subject to all of the penalties that apply to unlicensed persons, including the criminal, administrative, and civil penalties described in Iowa Code sections 542.14 and 542.15.

20.7(2) If an individual acting or purporting to act under a practice privilege engages in any act or practice that does or may in the future violate Iowa Code chapter 542 or board rules, the board may take any or all of the following actions, as applicable:

a. Apply to the district court for an injunction, restraining order, or other order, pursuant to Iowa Code section 542.14(1);

b. Issue an order to compel compliance with Iowa Code chapter 542 or board rules, impose a civil penalty , pursuant to Iowa Code 542.14;

c. Deny the subsequent license application of the violator or the violator's firm, pursuant to Iowa Code section 542.20, subsection 4, paragraphs "a" and "b";

d. Refer the complaint or other relevant information to the jurisdiction that issued a license to the alleged violator; and

e. Take disciplinary action against the individual pursuant to Iowa Code section 542.10 if the individual holds an inactive or lapsed Iowa license.

20.7(3) Complaints filed with the board alleging violations by individuals who are not licensed by the board, including those acting or purporting to act under a practice privilege, are not confidential under Iowa Code section 272C.6(4) and will not be treated as confidential unless otherwise provided in Iowa Code chapter 22 or other applicable law.

20.7(4) Persons filing complaints with the board against individuals acting or purporting to act under a practice privilege should provide as much information as possible to assist the board in locating the individual and in determining whether the individual is licensed in any jurisdiction.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—20.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.

20.8(1) *Active Iowa licensees.* An Iowa licensee holding an active CPA certificate is treated for all purposes as an Iowa licensee and is not subject to the provisions of Iowa Code section 542.20.

20.8(2) *Inactive Iowa licensees.* An Iowa licensee holding an inactive CPA certificate is precluded by Iowa Code section 542.6(3) and rule 193A—5.9(272C,542) from performing attest or compilation services or using the title "CPA" while performing public accounting services in Iowa or for a client with a home office in Iowa. The practice of an inactive CPA is constrained because the continuing education necessary to renew in active status does not apply to those renewing in inactive status. Some individuals holding an inactive Iowa CPA certificate may, however, hold an active CPA certificate in another jurisdiction in which they maintain their principal place of business and satisfy continuing education obligations. Such individuals may have maintained an inactive Iowa CPA certificate solely to facilitate reinstatement to active status when active Iowa licensure is necessary in their practice. The following provisions apply to inactive Iowa licensees who may wish to exercise a practice privilege:

a. In a disciplinary investigation or proceeding in which an inactive Iowa licensee is alleged to have improperly used the title “CPA” or otherwise practiced public accounting on an inactive license, the board will consider whether the inactive licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.

b. The individual will take care to avoid public confusion about licensure status as provided in 193A—subrule 5.1(6).

c. Violations of Iowa laws or rules by an individual holding an inactive Iowa CPA certificate will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be enforced under the provisions of Iowa Code sections 542.14 and 542.15.

20.8(3) Lapsed Iowa licensees. An Iowa licensee holding a lapsed Iowa CPA certificate is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title “CPA” in Iowa or for a client with a home office in Iowa. A lapsed licensee is subject to discipline for practicing on a lapsed license or representing oneself as a “CPA” in any context unless the licensee truthfully discloses that the certificate has lapsed. Some individuals holding lapsed Iowa CPA certificates may, however, hold active CPA certificates in another jurisdiction in which the individuals maintain their principal place of business. Such individuals may have intentionally allowed their Iowa CPA certificates to lapse because the individuals no longer need an active Iowa license in their practice. The following provisions apply to lapsed Iowa licensees who may wish to exercise a practice privilege:

a. In a disciplinary investigation or proceeding in which a lapsed Iowa licensee is alleged to have improperly used the title “CPA” or otherwise practiced public accounting on a lapsed license, the board will consider whether the lapsed licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.

b. The individual will take care to avoid public confusion about licensure status as provided in 193A—subrule 5.1(6).

c. Violations of Iowa laws or rules by an individual holding a lapsed Iowa CPA certificate will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be prosecuted under the provisions of Iowa Code sections 542.14 and 542.15.

20.8(4) Former Iowa licensees. An individual who held an Iowa CPA certificate at one time whose Iowa CPA certificate has been revoked or surrendered in connection with a disciplinary investigation or proceeding is barred from performing attest or compilation services or using the title “CPA” whether or not such individual may otherwise qualify for a practice privilege.

a. The former Iowa licensees described in this subrule are ineligible to exercise the practice privilege described in Iowa Code section 542.20.

b. Violations of Iowa Code chapter 542 or board rules by former Iowa licensees are subject to the criminal, civil and administrative remedies described in Iowa Code sections 542.14 and 542.15, and may also be prosecuted as disciplinary proceedings under Iowa Code section 542.10 if the license remains subject to reinstatement under Iowa Code section 542.12.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	165
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	30

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Accountancy Examining Board	Date:	7/26/23	Total Rule Count:	8
IAC #:	193A	Chapter/ SubChapter/ Rule(s):	21 (will be renumbered as 20)	Iowa Code Section Authorizing Rule:	542.4(9)
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Licenseses from other jurisdictions enjoy a practice privilege outlined in Chapter 20, allowing licenseses to practice in multiple states on one license. The chapter informs on the provisions of the privilege for firms practicing in Iowa.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved by highlight the provisions of the privilege.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support

this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

193A—21.1(542) Overview and timing.

193A—21.2(542) Out-of-state licensure status.

193A—21.3(542) When Iowa licensure may be necessary.

193A—21.4(542) CPA firms ineligible for a practice privilege

193A—21.5(542) Attest and compilation services.

193A—21.6(542) Rights and duties.

193A—21.7(542) Penalties.

193A—21.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 21
PRACTICE PRIVILEGE FOR OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTING FIRMS

193A—21.1(542) Overview and timing. Out-of-state certified public accounting firms that maintain their principal place of business in a jurisdiction other than Iowa may practice public accounting in Iowa or for clients with a home office in Iowa without Iowa licensure if all of the conditions of Iowa Code section 542.20 and this chapter are satisfied.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—21.2(542) Out-of-state licensure status. The practice privilege described in Iowa Code section 542.20 applies to certified public accounting firms that are licensed to practice as certified public accounting firms in the jurisdiction in which their principal place of business is located for those periods of time in which all of the following conditions are satisfied:

21.2(1) The out-of-state license is valid, in good standing, and active. The practice privilege ceases if the out-of-state license expires in the jurisdiction of the firm’s principal place of business.

21.2(2) The out-of-state license is substantially equivalent to a permit to practice issued under Iowa Code section 542.7.

21.2(3) The license authorizes in the firm’s principal place of business all of the public accounting services the firm performs or offers to perform in Iowa or for clients with a home office in Iowa.

21.2(4) The public accounting services offered in Iowa or for clients with a home office in Iowa that are obligated under Iowa law to be performed by a CPA are performed by a person holding a certificate issued under Iowa Code section 542.6 or 542.19, or by a person exercising a practice privilege pursuant to Iowa Code section 542.20 and 193A—Chapter 20.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—21.3(542) When Iowa licensure may be necessary.

21.3(1) The auditor of state, the department of agriculture and land stewardship, other governmental official or body, or a client may mandate that a firm be licensed in Iowa as a condition of performing public accounting services in Iowa or for a client with a home office in Iowa, whether or not the firm may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accounting firm is necessary, for example, to perform certain audit services described in Iowa Code chapter 11.

21.3(2) Iowa licensure is necessary if the firm has one or more offices in Iowa at which the firm uses the title “CPAs,” “CPA firm,” “certified public accountants,” or “certified public accounting firm.”

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 0413C, IAB 10/31/12, effective 12/5/12; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—21.4(542) CPA firms ineligible for a practice privilege.

21.4(1) The practice privilege described in Iowa Code section 542.20 is not applicable if:

a. The firm or any of the firm’s owners (e.g., partners, shareholders, or members) has been convicted of a felony under the laws of any jurisdiction.

b. The firm or any of the firm’s owners (e.g., partners, shareholders, or members) has been convicted of any crime under the laws of any jurisdiction if an element of the crime involves dishonesty or fraud, such as forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or similar offense, as more fully described in Iowa Code section 542.5(2).

c. The license to practice public accounting of the firm or any of the firm’s owners (e.g., partners, shareholders, or members) has been suspended, revoked, or otherwise disciplined by a licensing authority in this or another state, territory, or country, for any cause other than failure to pay appropriate fees. “Disciplined” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding in Iowa or any other jurisdiction.

d. The right of the firm or any of the firm’s owners (e.g., partners, shareholders, or members) to practice public accounting before any state or federal agency or the PCAOB has been suspended or revoked.

e. The firm or any of the firm’s owners (e.g., partners, shareholders, or members) has applied for licensure as a certified public accounting firm or a certified public accountant in Iowa or any other jurisdiction and the application has been denied.

f. Civil penalties have been imposed against the firm or any of the firm’s owners (e.g., partners, shareholders, or members) pursuant to Iowa Code section 542.14.

g. The authority of the firm or any of the firm’s owners (e.g., partners, shareholders, or members) to exercise a practice privilege has been revoked in Iowa or any other jurisdiction.

21.4(2) Firms precluded from exercising a practice privilege under this rule may apply for licensure in Iowa if otherwise qualified. The board will determine when an application is submitted whether the criminal or disciplinary history or other regulatory action against the firm or against any of the firm’s owners (e.g., partners, shareholders, or members) provides a ground to deny licensure.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—21.5(542) Attest and compilation services. Unless otherwise obligated by rule 193A—21.3(542), attest and

compilation services may be performed by an out-of-state CPA firm exercising a practice privilege as long as the out-of-state firm is validly licensed in the state of its principal place of business, complies with Iowa Code sections 542.20(5) and 542.20(6) and associated rules, and complies with the peer review and ownership provisions of Iowa Code section 542.7.
[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 0413C, IAB 10/31/12, effective 12/5/12; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—21.6(542) Rights and duties.

21.6(1) CPA firms that satisfy the conditions for a practice privilege may practice public accounting in Iowa or for a client with a home office in Iowa in person, or by telephone, mail, or electronic means without licensure under Iowa Code chapter 542 or notice to the board.

21.6(2) CPA firms lawfully practicing public accounting under a practice privilege may use the title “CPAs,” “CPA firm,” “certified public accountants,” or “certified public accounting firm.”

21.6(3) CPA firms practicing public accounting in Iowa or for a client with a home office in Iowa while exercising a practice privilege are subject to all of the following provisions:

a. Practice privilege firms are not allowed to make any representation tending to falsely indicate that the firm is licensed under Iowa Code chapter 542. Such firms may truthfully identify themselves as licensed in any jurisdiction in which the firm holds a valid, active, unexpired license to practice as a certified public accounting firm. For example, a practice privilege firm could not use the title “Iowa CPAs” or “Iowa CPA firm” or otherwise state or imply licensure in Iowa, but, if true, the firm could use a title such as “CPA firm, licensed in Texas” or “Florida CPAs.” Such firm could also truthfully state that the firm is practicing in Iowa under a practice privilege.

b. Practice privilege firms will provide, upon a client’s or prospective client’s request, accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

c. Practice privilege firms will comply with all professional standards, laws, and rules that apply to licensed firms performing the same professional services.

21.6(4) As a condition of exercising the practice privilege provided in Iowa Code section 542.20, the firm:

a. Consents to the personal and subject matter jurisdiction and regulatory authority of the board including, but not limited to, the board’s jurisdiction to revoke the practice privilege or otherwise take action under Iowa Code section 542.14 for any violation of Iowa Code chapter 542 or board rules;

b. Appoints the regulatory body of the state that issued the license in the firm’s principal place of business as the agent upon whom process may be served in any action or proceeding by the board against the firm;

c. Agrees to supply the board, upon the board’s request and without subpoena, such information or records that licensed firms are similarly obligated to provide the board under Iowa Code chapter 542, including but not limited to the information described in Iowa Code section 542.20, subsection 7, paragraph “c,” and rule 193A—7.3(542); and

d. Agrees to promptly cease offering or providing public accounting services in Iowa or for a client with a home office in Iowa if the license in the firm’s principal place of business expires or is otherwise no longer in good standing, or if any of the conditions for exercising the practice privilege are no longer satisfied, or if the board revokes the practice privilege.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—21.7(542) Penalties.

21.7(1) Firms purporting to practice public accounting under a practice privilege that are ineligible to exercise a practice privilege or that fail to satisfy the conditions for exercising a practice privilege are subject to all of the penalties that apply to unlicensed firms, including the criminal, administrative, and civil penalties described in Iowa Code sections 542.14 and 542.15.

21.7(2) If a firm acting or purporting to act under a practice privilege engages in any act or practice that does or may in the future violate Iowa Code chapter 542 or board rules, the board may take any or all of the following actions, as applicable:

a. Apply to the district court for an injunction, restraining order, or other order, pursuant to Iowa Code section 542.14(1);

b. Issue an order compelling compliance with Iowa Code chapter 542 or board rules, impose a civil penalty pursuant to Iowa Code section 542.14;

c. Deny the subsequent license application of the violator or, to the extent responsible for the violation, any of the firm’s owners (e.g., partners, shareholders, or members), pursuant to Iowa Code section 542.20, subsection 4, paragraphs “a” and “b”;

d. Refer the complaint or other relevant information to a jurisdiction that issued a license to the alleged violator; and

e. Take disciplinary action against the firm or, to the extent responsible for the violation, any of the firm’s owners (e.g., partners, shareholders, or members), pursuant to Iowa Code section 542.10 if the firm or individual holds an inactive or lapsed Iowa license.

21.7(3) Complaints filed with the board alleging violations by firms that are not licensed by the board, including those

acting or purporting to act under a practice privilege, are not confidential under Iowa Code section 272C.6(4) and will not be treated as confidential unless otherwise provided in Iowa Code chapter 22 or other applicable law.

21.7(4) Persons filing complaints with the board against firms acting or purporting to act under a practice privilege should provide as much information as possible to assist the board in locating the firm and the individuals allegedly responsible for the acts or omissions causing the complaint, and in determining whether the firm or any responsible individual is licensed in any jurisdiction.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—21.8(542) Relationship between Iowa licensure and the exercise of a practice privilege.

21.8(1) Active Iowa licensees. An Iowa CPA firm holding an active permit to practice under Iowa Code section 542.7 will be treated for all purposes as an Iowa licensee and are not subject to the provisions of Iowa Code section 542.20.

21.8(2) Lapsed Iowa licensees. An Iowa CPA firm holding a lapsed permit to practice under Iowa Code section 542.7 is not authorized to perform attest or compilation services or to otherwise practice public accounting using the title “CPAs,” “CPA firm,” “certified public accountants,” or “certified public accounting firm” unless the firm is eligible to exercise a practice privilege under Iowa Code section 542.20. The following provisions apply to firms holding a lapsed Iowa permit to practice when exercising a practice privilege:

a. In a disciplinary investigation or proceeding alleging unlicensed practice or improper use of title, the board will consider whether the lapsed licensee, at the time of the events at issue, satisfied the conditions for a practice privilege under Iowa Code section 542.20 and complied with all rules applicable to the exercise of a practice privilege.

b. The firm will take reasonable steps to avoid public confusion over licensure status.

c. Violations of Iowa laws or rules by a firm holding a lapsed permit to practice will be prosecuted as disciplinary proceedings against a licensee under Iowa Code section 542.10 and, when appropriate under the factual circumstances, may also or alternatively be prosecuted under the provisions of Iowa Code sections 542.14 and 542.15.

21.8(3) Former Iowa licensees. A CPA firm that held an Iowa permit to practice at one time which has been revoked or surrendered in connection with a disciplinary investigation or proceeding is barred from performing any act or practice for which Iowa firm licensure is necessary and is further ineligible to exercise the practice privilege described in Iowa Code section 542.20. Violations of Iowa Code chapter 542 or board rules by such a firm are subject to the criminal, civil and administrative remedies described in Iowa Code sections 542.14 and 542.15, and may also be prosecuted as disciplinary proceedings under Iowa Code section 542.10 if the license remains subject to reinstatement under 193A—subrule 7.6(3).

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	77
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/24/2023	Total Rule Count:	3
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	1	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 1 provides basic information on the structure and function of the architectural examining board, which benefits the public and licensees in knowing about the organization and administration of the board.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is achieved, as each of the rules functions to inform the public about the organization and administration of the board.

What are the costs incurred by the public to comply with the rule?

None.

What are the costs to the agency or any other agency to implement/enforce the rule?

The costs to the agency are staff costs for three shared staff members; approximately 0.5 FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is needed to regulate the profession as directed in Iowa Code. This work is done with a focus on protecting the public who receive services from these licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

These rules will aid licensees and the general public better understanding the board.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

1.1(2) removes unnecessary language.
 1.1(3) removes unnecessary language.
 1.1(4) removes unnecessary language.
 1.1(5) removes unnecessary language.
 1.1(6) removes unnecessary language.
 Formerly 1.3, now 1.2 removes unnecessary language.

Formerly 1.4, now 1.3 removes unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

1.2

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 1
DESCRIPTION OF ORGANIZATION

193B—1.1(544A,17A) Duties.

1.1(1) The purpose of the architectural examining board is to administer and enforce the provisions of Iowa Code chapter 544A with regard to the practice of architecture in the state of Iowa, including the examining of candidates; issuing licenses to practice architecture; assuring continuing competency through continued education; investigating violations and infractions of the architecture law; disciplining licensees; and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board’s intent and procedures.

1.1(2) The primary mission of the board is to protect the public interest. All board rules foster the guiding policies and principles described in Iowa Code section 544A.5. The board and its licensees strive at all times to protect the public interest by promoting the highest standards of architecture.

1.1(3) The board maintains a roster of all architects authorized to practice architecture in the state.

1.1(4) Chairperson. The chairperson presides at all meetings, appoints all committees, and otherwise performs all duties pertaining to the office of the chairperson.

1.1(5) Vice chairperson. The vice chairperson, in the absence or incapacity of the chairperson, exercises the duties and possesses the powers of the chairperson.

1.1(6) Board administrator. The department of inspections, appeals, and licensing may employ a board administrator, who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator determines when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator submits to the board any questionable application.

193B—1.2(544A,17A) Meetings. Calls for meetings are issued in accordance with Iowa Code section 21.4. The first meeting scheduled after April 30 is the annual meeting. The chairperson and vice chairperson are elected to serve until their successors are elected. The newly elected officers assume the duties of their respective offices at the conclusion of the meeting at which they are elected. Officers may serve no more than three consecutive one-year terms in each office to which they are elected. Special meetings may be called by the chairperson or board administrator, who will set the time and place of the meeting.

193B—1.3(544A,17A) Certificates. Certificates issued to successful applicants contain the licensee’s name and state license number. All licenses are renewable biennially on July 1, with licensees whose last names begin with the letters A through K renewing in even-numbered years and licensees whose last names begin with the letters L through Z renewing in odd-numbered years as provided in rule 193B—2.5(17A,272C,544A).

The board will maintain an electronic roster of those holders of certificates of licensure who have failed to renew. These rules are intended to implement Iowa Code sections 544A.5, 544A.8 to 544A.10, and 272C.4.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	166
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/24/2023	Total Rule Count:	10
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	2	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 2 establishes the minimum standards for architecture licensure. The public, licensees, and applicants benefit from the rule as it articulates the processes by which individuals apply for licensure as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual who holds a license has minimum competency. Requirements include the application process, minimum educational and training qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee.

Estimation of the cost of education and other licensure requirements, to become an Iowa licensed architect are

- Education: According to the Association of Collegiate Schools of Architecture, the median tuition per year for at a public institution for a bachelor’s degree in architecture is \$10,125 and \$13,339 for a master’s degree. At a private institution the cost is \$39,982 for a bachelor’s degree and \$40,273 for a master’s degree.
- Experience/Training: There is not usually a cost as intern architects are paid for their work at a firm. Intern architects must pay \$100 to the National Council of Architectural Registration Boards to participate in the training program.
- Exam fee: \$1,410 (initial licensure by examination only, paid to the National Council of Architectural Registration Boards)
- Transmittal fee: \$450 (reciprocal licensure only, paid to the National Council of Architectural Registration Boards). Architects may choose to hold a certificate from the Nation Council of Architectural Registration Boards, which facilitates easy reciprocal licensure, which as an annual fee of \$270.
- Other fees: Applicants may need to pay a licensure verification fee to other jurisdictions (licensure by verification only, paid to other jurisdictions).

- Licensure by Exam Application/License Fee: \$50 plus \$5/month until renewal
- Licensure by Reciprocity or Verification Application/License Fee: \$200

Nebraska’s license fees are \$100 for an initial license and \$150 for a reciprocal license. Minnesota’s application fee is \$75, plus a \$120 license fee.

Iowa, Nebraska, and Minnesota are among the 38 states that require an accredited degree in order to obtain an architect license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .25 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are able to safely interact with the built environment.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure. While Iowa could deregulate the architecture profession, it would be on the only state to do so. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. Architects make sure that buildings are safe and meet state building codes. In addition, the rule provides consistency related to the licensure in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

- 2.1 removes outdated and unnecessary language.
- 2.2 removes outdated and unnecessary language.
- 2.3 removed unnecessary language.
- 2.5 removes outdated and unnecessary language.
- 2.7 removes outdated and unnecessary language.

2.11 removes outdated language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 2
LICENSURE

193B—2.1(544A,17A) Definitions. The following definitions apply as used in Iowa Code chapter 544A, and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Applicant*” means an individual who has submitted an application for licensure to the board.

“*Architectural intern*” or “*intern architect*” means an individual who holds a professional degree from a NAAB-accredited program or the equivalent as deemed by the Board, has completed or is currently enrolled in the NCARB Architectural Experience Program (AXP), and intends to actively pursue licensure by completing the Architect Registration Examination.

“*ARE*” means the current Architect Registration Examination, as prepared and graded by the National Council of Architectural Registration Boards (NCARB).

“*AXP applicant*” means an individual who has completed the AXP training requirements set forth in the NCARB Architectural Experience Program Guidelines and has submitted an application for licensure to the board.

“*Examination*” means the current Architect Registration Examination (ARE) accepted by the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of licensure is required.

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“*NAAB*” means the National Architectural Accrediting Board.

“*NCARB*” means the National Council of Architectural Registration Boards. The *NCARB Architect Registration Examination Guidelines*, *NCARB Architectural Experience Program Guidelines*, and *NCARB Certification Guidelines* are available through the National Council of Architectural Registration Boards, 1401 H Street NW, Suite 500, Washington, DC 20005; NCARB’s website, www.ncarb.org; or the architectural examining board.

“*NCARB Architect Registration Examination (ARE) Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for examination.

“*NCARB Architectural Experience Program Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for training.

“*NCARB Certification Guidelines*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for licensure as an architect.

“*Retired*” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

193B—2.2(544A,17A) Licensure. All applicants for licensure will complete an online application form.

2.2(1) *Examination*. To be eligible for licensure by examination, all applicants will have obtained an accredited professional architectural degree from the National Architectural Accrediting Board (NAAB), passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB Architectural Experience Program, and have attained a National Council of Architectural Registration Boards (NCARB) council record. A completed NCARB council record shall be transmitted to and filed in the board office. Upon receipt of the council record from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council record. The board shall issue a license number to the applicant upon receipt of the completed application form and appropriate fee.

a. Examinations for licensure as an architect shall be conducted by the board or its authorized representative.

(1) The board shall make use of the ARE prepared and graded by NCARB under a plan of cooperation with the architectural examining boards of all states and territories of the United States.

(2) The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

b. Exam admittance requirements:

(1) Have completed the eligibility requirements of the education standards for NCARB certification, which include a professional degree from a program accredited by the National Architectural Accrediting Board

(NAAB) or other NCARB approved education program or be a student actively participating in an NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within an NCARB approved education program and

(2) Be enrolled in or have completed the NCARB Architectural Experience Program.

(3) NCARB shall notify the testing service of the applicant's eligibility prior to the applicant's scheduling of an examination.

c. Architectural Experience Program (AXP) eligibility requirements will be verified and satisfied in accordance with the NCARB Architectural Experience Program Guidelines. Documentation of AXP training units will be submitted on AXP report forms published by NCARB and will be verified by signatures of the licensed architects serving as the intern architect's supervisors in accordance with the requirements outlined in the NCARB Architectural Experience Program Guidelines. The completed AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

2.2(2) *Reciprocity*. The board or the board administrator may waive examination requirements for applicants who, at the time of application, are licensed as architects in a different jurisdiction and hold an active NCARB certificate. All such applicants who hold an active NCARB certificate are deemed to possess qualifications that are substantially equivalent to those required of applicants for initial licensure in this state. An active NCARB council certificate shall be transmitted to and filed in the board office. Upon receipt of the certificate from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council certificate.

2.2(3) *Verification*. The board may grant registration via verification as provided for in rule 193.14.

2.2(4) *Military Service and Veteran Reciprocity*. The board may grant registration for military service applicants, spouses, and veterans as provided for in rules XX.

2.2(5) *Applicants seeking architectural commission in Iowa*. A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being licensed in this state if:

a. The person holds an NCARB certificate; and

b. The person holds a current and valid license issued by a licensing authority recognized by this state; and

c. The person notifies the board in writing on a form provided by the board that the person:

(1) Holds an NCARB certificate and a current and valid license issued by a licensing authority recognized by this state,

(2) Is not currently licensed in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and

(3) Has no previous or pending disciplinary action by any licensing authority; and

d. The person delivers a copy of the notice referred to in paragraph "c" to every potential client to whom the person offers to provide architectural services; and

e. The person provides the board with a sworn statement of intent to apply immediately to the board for licensure if selected as the architect for a project in this state.

The person is prohibited from actually providing architectural services until the person has been issued a valid license in this state.

2.3(6) *Board refusal to issue license*. The board may refuse to issue a certificate of licensure to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended or may otherwise discipline a licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, "disciplinary action" includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

193B—2.5(17A,272C,544A) Renewal of certificates of licensure.

2.5(1) *Active status*. Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to July 1 of the year of expiration. A licensee who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

a. A licensee whose last name begins with the letter A through K will renew in even-numbered years, and a licensee

whose last name begins with the letter L through Z will renew in odd-numbered years. However, a license issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022.

b. It is the policy of the board to send to each licensee a notice of the pending expiration date at the licensee's last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. The notice, when provided, may be by email communication. Failure to receive this notice does not relieve the licensee of the responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

c. Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's administrator will issue a new certificate of licensure reflecting the next expiration date, unless grounds exist for denial of the application.

d. If grounds exist to deny a timely and sufficient application to renew, the board will send notification to the applicant. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board will proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

e. When a licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under 193B—subrule 3.3(3), offer a licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

f. The board may notify a licensee whose certificate of licensure has expired. The failure of the board to provide this courtesy notification or the failure of the licensee to receive the notification will not extend the date of expiration.

g. A licensee who continues to practice architecture in Iowa after the license has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

2.5(2) *Inactive status.* This subrule establishes a procedure under which a person issued a certificate of licensure as an architect may apply to the board to be licensed as inactive. Licensure under this subrule is available to a license holder who is not engaged in Iowa in any practice for which licensure as an architect is required. A person eligible to be licensed as inactive may, as an alternative to such licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person shall not use the title "architect" or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a data base of persons licensed as inactive, including information which is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who is licensed as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

a. *Affirmation.* The renewal application form will contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.7(544A).

b. *Renewal.* A person licensed as inactive may renew the person's certificate of licensure on the biennial schedule described in this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.10(544A,17A). An inactive certificate of licensure will lapse if not timely renewed.

c. *Permitted practices.* A person may, while licensed as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of licensure has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "architect" or any other title restricted for use only by architects pursuant to Iowa Code section

544A.15 (with or without additional designations such as “inactive” or “retired”). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while licensed as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

2.5(3) Retired status. A person who held a license as an architect and who does not reasonably expect to return to the workforce in any capacity for which a certificate of licensure is required due to bona fide retirement or disability may apply to the board for retired status and, if granted, may use the title “architect retired” in the context of non-income-producing personal activities. If the board determines an applicant is eligible, the retired status would become effective on the first scheduled license renewal date. Applicants do not need to reinstate an expired license to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial license fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Persons licensed in retired status are exempt from the renewal requirement.

a. Affirmation. The retired status application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in retired status may reinstate to active status at any time pursuant to rule 193B—2.7(544A).

b. Permitted practices. Persons licensed in retired status may engage in the practices identified in paragraph 2.5(2) “c.” Such persons may also provide services as technical experts before a court, including prelitigation preparation, discovery, and testimony, on matters directly related to architectural services provided by such persons prior to being licensed with the board in retired status.

c. Exemption. A person whose license as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless, upon appropriate application, the board first reinstates the license to good standing.

193B—2.6(544A, 17A) Reinstatement of lapsed certificate of licensure to active status. An individual may reinstate a lapsed certificate of licensure to active licensure as follows:

2.6(1) Pay the current renewal fee.

2.6(2) Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired licensure up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect license is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

2.6(3) Provide a written statement outlining the applicant’s professional activities performed in Iowa during the period in which the individual was unlicensed. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.6(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The continuing education hours used for reinstatement may not be used again at the next renewal.

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive license to an active license as follows:

a. Pay one-half of the current active license fee.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive licensure.

2.7(2) An individual may reinstate a retired license to an active license as follows:

a. Pay the current active license fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active license fee shall be paid.

b. Satisfy 193B subrule 2.1(1)(b)-(c).

2.7(3) An individual shall not be allowed to reinstate to inactive status from retired status.

193B—2.8(544A,17A) Finding of probable cause for unlicensed practice. The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed licensure.

193B—2.9(544A,272C) Responsibility for accuracy of applications. The architect is responsible for verifying the accuracy of the information submitted on an application regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an architect’s firm submits an application for renewal on behalf of the architect and that information is incorrect, the architect will be held responsible for the information and may be subject to disciplinary action.

193B—2.10 An application may be denied on the grounds provided in Iowa Code chapter 544A and in rule 193—7.39. The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure. The board may also deny a license on the grounds of submitting a false statement or submission of material fact on an application for licensure.

193B—2.11(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB.

Initial license fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and license fee	\$200
Verification application and license fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Retired status	None
Reinstatement of lapsed individual license	\$100 + renewal fee + \$25 per month or partial month of expired license
Reinstatement of inactive individual license	\$100
Reinstatement of retired individual license	\$200
Duplicate wall certificate fee	\$ 50
License predetermination fee	\$ 25

Fee for return of payment \$ 30

All fees are nonrefundable.

These rules are intended to implement Iowa Code chapters 544A and 17A.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	550
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	58

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/24/2023	Total Rule Count:	5
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	3	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for licensed architects to assure continuing competency. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that architects maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that architects meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in the field, which allows them provide the best service to lowans. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education. The board is in alignment with national model law for architect regulation.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. There are multiple entities which provide continuing education courses to licensees. Some do offer free continuing education. Some design firms offer free continuing education for their employees. The costs vary, but an average cost, if incurred at all, is an estimated \$25 per hour, bringing the total cost to \$600 every two years for a licensee to meet these requirements.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements and performing continuing education audits. Shared staff at approximately .5 of an FTE support the entirety of the work of the board. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to

ensure ongoing competency for practitioners. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. Forty-four states require continuing education; all of the states within our region require continuing education. Illinois, Nebraska, Minnesota, and Missouri also require 24 hours of continuing education every two years. The board is in alignment with national model law for architect regulation.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

3.2 removes unnecessary language.
3.3(3) removes unnecessary language.
3.4 removes unnecessary language.
3.5 removes unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

3.6

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 3
CONTINUING EDUCATION

193B—3.1(544A,272C) Continuing education. The following rules adopted by the architectural examining board are in compliance with Iowa Code chapter 544A and section 272C.2 requiring professional and occupational licensees to participate in a continuing education program as a condition of license renewal.

193B—3.2(544A,272C) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“Continuing education” or *“CE”* means postlicensure learning that enables a licensed architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public’s health, safety, and welfare.

“Continuing education hour” or *“CEH”* means one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect’s knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity and if the prescribed time is not deemed unreasonable by the board, then such prescribed time **will** be accepted for CEH purposes as the architect’s time irrespective of actual time spent on the activity.

“Distance learning” means any education process based on the geographical separation of student and instructor. *“Distance learning”* includes computer-generated programs, webinars, and home-study/correspondence programs.

“Health, safety, and welfare subjects” means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

1. Building systems: structural, mechanical, electrical, plumbing, communications, security, and fire protection.
2. Construction contract administration: contracts, bidding, and contract negotiations.
3. Construction documents: drawings, specifications, and delivery methods.
4. Design: urban planning, master planning, building design, site design, interiors, safety and security measures.
5. Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation.
6. Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, and insurance to protect owners and the public.
7. Materials and methods: construction systems, products, finishes, furnishings, and equipment.
8. Occupant comfort: air quality, lighting, acoustics, and ergonomics.
9. Predesign: land use analysis, programming, site selection, site and soils analysis, and surveying.
10. Preservation: historic, reuse, and adaptation.

“Not engaged in active practice” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

“Retired from active practice” has the same meaning as *“not engaged in active practice.”*

“Structured educational activities” means educational activities in which at least 75 percent of an activity’s content and instructional time is to be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether the courses of study or other activities are delivered by direct contact or distance learning methods.

193B—3.3(544A,272C) Basic requirements.

3.3(1) To renew licensure, an architect must, in addition to meeting all other requirements, complete a minimum of 24 CEHs for each 24-month period since the architect’s last renewal of initial licensure or be exempt from these continuing education requirements as provided in rule 193B—3.5(544A,272C). Failure to comply with these requirements may result in nonrenewal of the architect’s license.

3.3(2) All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational

activities. CEHs may be acquired at any location. Excess CEHs cannot be credited to the next renewal.

3.3(3) An architect **will** complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs **will** be maintained by the architect for two years after the period for which the form was submitted. Any discrepancy between the number of CEHs reported and the number of CEHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEHs, or the licensee has failed to complete the required CEHs, the architect **will** have 60 days from notification of the board to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs **are** not used for the next renewal). An extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

3.3(4) An architect who holds licensure in Iowa for less than 12 months from the date of initial licensure or who is reinstating to active status **is** not be required to report CEHs at the first license renewal. An architect who holds licensure in Iowa for 12 months or more, but less than 23 months from the date of initial licensure or who is reinstating to active status, **is** required to report 12 CEHs earned in the preceding 12 months at the first license renewal.

193B—3.4(544A,272C) Authorized structured educational activities. The following list may be used by all licensees in determining the types of activities which may fulfill CE requirements if the activities are conducted as structured educational activities on health, safety, and welfare subjects:

1. Short courses or seminars sponsored by colleges or universities.
2. Technical presentations held in conjunction with conventions or at seminars sponsored or accredited by the American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council, National Council of Architecture Registration Boards (NCARB), or similar organizations devoted to architectural education.
3. Distance learning sponsored by the AIA, NCARB, or similar organizations.
4. College or university credit courses. Each semester hour equals 12 CEHs. A quarter hour equals 8 CEHs.

193B—3.5(544A,272C) Exemptions.

3.5(1) As provided in Iowa Code section 272C.2(4), a licensed architect **will** be deemed to have complied with the continuing education requirements set forth in this chapter if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year period of licensure, the architect:

- a.* Has served honorably on active duty in the military service; or
- b.* Is a resident of another state or district having a continuing education requirement for licensure as an architect and has complied with all requirements of that state or district for practice therein; or
- c.* Is a government employee working as an architect and assigned to duty outside the United States.

3.5(2) Architects who so attest on their affidavits that they are retired from active practice or are not engaged in active practice may maintain their licenses in retired or inactive status without satisfying CE requirements. Such architects may, however, reenter practice only after satisfying the board of their proficiency. Proficiency may be established by any one of the following:

- a.* Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice up to a maximum of 48 CEHs.
- b.* Retaking the architectural registration examination.
- c.* Fulfilling alternative reentry requirements determined by the board which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

3.5(3) The board **may** make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See Iowa Administrative Code 193—Chapter 5.

These rules are intended to implement Iowa Code section 272C.2.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	111
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	11

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Architectural Examining Board	Date:	8/24/2023	Total Rule Count:	1
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	4	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides the public and licensees the rules of conduct for architects while practicing architecture.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidance for professional conduct, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. Costs to the licensee include the cost of a seal, which costs under \$50. There is also time and effort that goes into practicing in a competent manner.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of conduct standards, questions from licensees and the public, administration of board meetings, etc.. Shared staff at approximately .5 of an FTE support the entirety of the work of the board. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of rules of conduct is to ensure the public safety and welfare in the built environment. If architecture was not regulated it could mean that lower skilled individuals would design buildings that may not meet safety standards. Architecture is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Architecture licensure is required in all 50 states.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

4.1 removes unnecessary language.
4.1(1) removes unnecessary language.
4.1(2) removes unnecessary language.
4.1(3) removes unnecessary language.
4.1(4) removes unnecessary language.
4.1(5) removes unnecessary language.
4.1(6) removes unnecessary language.
4.1(7) removes unnecessary language.
4.1(8) removes unnecessary language.
4.1(9) removes unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

4.2

CHAPTER 4
RULES OF CONDUCT

193B—4.1(544A,17A) Rules of conduct. Failure by a licensee to adhere to the provisions of Iowa Code sections 272C.10 and 544A.13 and the following rules of conduct is grounds for disciplinary action.

4.1(1) *Definitions.* The following definition applies as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Responsible charge*” means the amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a licensed architect applying the necessary professional standard of care, including but not limited to an architect’s integration of information from manufacturers, suppliers, installers; the architect’s consultants, owners, contractors; or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect’s technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed professional knowledge of the content of such submissions throughout their preparation.

4.1(2) *Competence.*

a. In practicing architecture, an architect will act with reasonable care and competence and apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

b. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of all applicable state and municipal building laws and regulations, once having obtained such advice, an architect will not knowingly design a project in violation of these laws and regulations.

c. An architect may perform professional services only when the architect, together with those whom the architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.

d. No person is permitted to practice architecture if, in the board’s judgment upon receipt of medical testimony or evidence, the person’s professional competence is substantially impaired by physical or mental disabilities.

4.1(3) *Conflict of interest.*

a. An architect may accept compensation for services from more than one party on a project if the circumstances are fully disclosed to and agreed to in writing by all interested parties.

b. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence the architect’s judgment in connection with the architect’s performance of professional services, the architect will fully disclose, in writing, to the client or employer the nature of the business association or financial interest, and if the client or employer objects to the association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

c. An architect may not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, an architect will render decisions impartially, favoring neither party to the contract.

4.1(4) *Full disclosure.*

a. When making public statements on architectural questions, an architect will disclose when compensation is being received for making the statements.

b. An architect will accurately represent to a prospective or existing client or employer the architect’s qualifications, capabilities, and experience and the scope of the architect’s responsibility in connection with work for which the architect is claiming credit.

c. If, in the course of work on a project, an architect becomes aware of a decision taken by the employer or client against the architect’s advice which violates applicable state or municipal building laws and regulations and which may, in the architect’s judgment, adversely affect the safety to the public of the finished project, the architect will:

1. Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,

2. Refuse to consent to the decisions, and

3. In circumstances where the architect reasonably believes that other decisions will be taken, notwithstanding the architect’s objection, terminate the architect’s services with reference to the project.

d. An architect will not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for licensure or renewal of license.

e. An architect will not assist the application for licensure of a person known by the architect to be unqualified in respect to education, training, experience or character.

f. An architect possessing knowledge of a violation of these rules by another architect will report the knowledge to the board.

4.1(5) *Compliance with laws.*

a. An architect will not, in the conduct of architectural practice, knowingly violate any state or federal criminal law. A “conviction” for purposes of this paragraph and Iowa Code section 544A.13 means a conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee’s ability to practice the profession of architecture, and includes the court’s acceptance of a guilty plea, a deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, guilty plea, deferred judgment, or other finding of guilt is conclusive evidence. A licensed architect will notify the board of a conviction within 30 days of the conviction.

b. An architect will neither make nor offer to make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official’s judgment in connection with a prospective or existing project in which the architect is interested.

c. An architect will comply with the licensing laws and regulations governing the architect’s professional practice in any United States jurisdiction.

d. An Iowa-licensed architect will report to the board in writing any revocation, suspension, license denial, or other disciplinary action taken by a licensing authority in any other state or jurisdiction within 30 days of the final action.

4.1(6) *Professional conduct.*

a. Each office engaged in the practice of architecture will have an architect resident regularly employed in that office having responsible charge of such work or, in the situation of work performed remotely, immediately available to furnish assistance or direction throughout the performance of the work.

b. An architect may only sign or seal drawings, specifications, reports or other professional work for which the architect has direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of professional work prepared by the architect’s consultants, licensed under this or another professional licensing law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. An architect will neither offer nor make any gifts to any public official with the intent of influencing the official’s judgment in connection with a project in which the architect is interested. Nothing in this rule will bar an architect from providing architectural services as a charitable contribution.

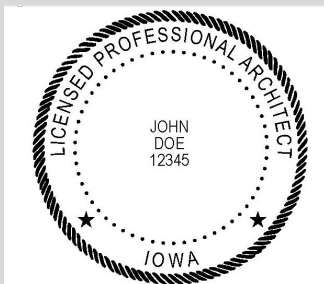
d. An architect will not engage in conduct involving fraud or wanton disregard of the rights of others.

e. Architects will adhere to the appropriate standards of conduct as outlined in the NCARB Model Rules of Conduct, dated July 2018, incorporated herein by reference.

4.1(7) *Seal and certificate of responsibility.*

a. The seal under Iowa Code section 544A.28- includes:

1. An outside circle with a diameter of approximately 1¾ inches.
2. The name of the licensed architect and the words “Licensed Architect”.
3. The Iowa license number and the word “Iowa”.
4. The seal will substantially conform to the samples shown below:



c. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

d. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, will contain an information block on its first page or on an attached cover sheet with application of a seal by the architect in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature will be applied only to a final technical submission. Each official

copy of a technical submission will be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block will display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional will be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

S E A L	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly licensed architect under the laws of the state of Iowa.</p> <p style="text-align: center;">Signature Date</p> <p>Printed or typed name</p> <p>License number</p> <p>My license renewal date is June 30, .</p> <p>Pages or sheets covered by this seal:</p>
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e. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

f. The architect who signed the original submission is responsible for forwarding copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

g. An architect is responsible for the custody and proper use of the seal. Improper use of the seal is grounds for disciplinary action.

h. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

4.1(8) *Communications*. An architect will, when requested, respond to communications from the board within 30 days of the mailing of such communication by certified mail. Failure to respond to such communication may be grounds for disciplinary action against the architect.

4.1(9) *Architectural Experience Program supervisor*. The Architectural Experience Program supervisor, formerly known as the Intern Development Program supervisor, will timely respond to a request to verify experience hours reported to the National Council of Architectural Registration Board’s Architectural Experience Program when requested by NCARB, the board, or a subordinate, associate, or intern who is, or has been, supervised by the Architectural Experience Program supervisor.

This rule is intended to implement Iowa Code chapters 17A and 544A.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	78
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	45

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/25/2023	Total Rule Count:	4
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	5	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa residents, the public, building code officials, licensees and employers benefit from the rule as it clarifies when an architect is needed to design or make alterations to a building. The rule publicly establishes guidelines for the types of projects the architectural services are need to provide for the health and safety of those who occupy buildings and interact in the built environment. Architects ensure safety by adhering to federal and state laws, building codes, and zoning laws.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

Costs to the public would include fees paid to an architect or architectural firm; the costs vary depending on the size and complexity of the project. However the costs to use architectural services have the benefit of ensuring safe buildings. The Board recognizes that there are associated with the requirements, but is unable to assess an actual cost.

Minnesota and Nebraska’s requirements are similar to Iowa, and in some cases more stringent.

What are the costs to the agency or any other agency to implement/enforce the rule?

Shared staff at approximately .5 of an FTE support the entirety of the work of the board. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Establishing requirements for architectural services ensure safety for the public. The cost of inaction would increase the potential for injury to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Statute provides that the practice of architecture affects the public’s health, safety, and welfare. It allows for exemptions to using architectural services in six occasions. The rules in chapter 5 provide guidance to the public, especially lay people and building code officials, as to when the services of an architect are needed. Neighboring states have similar regulations.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

- 5.1 removes unnecessary language.
- 5.2 removes duplicative statutory language.
- 5.3 removes unnecessary language.
- 5.4 removes inconsistent language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 5
EXCEPTIONS

193B—5.1(544A) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules.

“*Accessory buildings*” means a building or structure of an accessory character and miscellaneous structures not classified in any specific occupancy or use. “Accessory buildings” are constructed, equipped and maintained to conform to the requirements corresponding to the fire and life hazard incidental to the buildings’ occupancy. “Accessory buildings” is intended to encompass the uses listed in Group U of the 2015 International Building Code®.

“*Agricultural building*” means a structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products. For the purpose of this definition, this structure does not contain habitable space or a place of employment where agricultural products are processed or treated or packaged; nor may it be a place used by the public.

“*Alter*” or “*alteration*” means any change, addition or modification to an existing building in its construction or occupancy.

“*Church*” means a building or portion thereof intended for the performance of religious services.

“*Commercial*” or “*commercial use*” means the following:

1. The use of a building or structure, or a portion thereof, for office, professional, or service-type transactions, including storage of records and accounts,

2. The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, including wares or merchandise incidental to such purposes and accessible to the public.

“Commercial use” is intended to encompass the uses listed in Group B and Group M of the 2015 International Building Code®.

“*Detached*” means a structure separated by distance and not connected to another structure.

“*Dwelling unit*” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“*Educational use*” means the use of a building or structure, or a portion thereof used (1) by six or more persons at any one time for education purposes through twelfth grade; or (2) by six or more children for day care purposes. Rooms and spaces within places of religious worship providing such day care during religious functions and day cares serving five or fewer children are classified as part of the primary occupancy. “Educational use” is intended to encompass the uses listed in Group E of the 2015 International Building Code®.

“*Factory-built buildings*” means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built buildings” includes the terms “mobile home,” “manufactured home,” and “modular home.”

“*Family dwelling unit*” means the same as “dwelling unit.”

“*Gross floor area*” means the area included within the surrounding exterior walls of a building. Areas of the building not provided with surrounding walls are included in the building area if such areas are included within the horizontal projection of the supporting structure of the roof or floor above.

“*Habitable space (room)*” means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered “habitable space.”

“*Hazardous use*” means the use of a building or structure, or a portion thereof, which involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. “Hazardous use” is intended to encompass the uses listed in Group H of the 2015 International Building Code®.

“*Industrial use*” means the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations that are not classified as hazardous use. “Industrial use” is intended to encompass the uses listed in Group F of the 2015 International Building Code®.

“*Institutional use*” means the use of a building or structure, or a portion thereof, in which persons are receiving custodial or medical care, in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Day care facilities as defined in educational use are not considered institutional uses. “Institutional use” is intended to encompass the uses listed in Group I of the 2015 International Building Code®. Facilities with five or fewer persons receiving custodial care may be considered a residential use or be considered part of the primary occupancy as listed in Group I of the 2015 International Building Code®.

“*International Building Code*” is a model building code developed by the International Code Council. The 2015 International Building Code® is available from the state library of Iowa or the board or online at codes.iccsafe.org.

“*Light industrial*” means buildings not more than one story in height and not exceeding 10,000 square feet in gross floor area that involve fabrication or manufacturing of noncombustible materials which, during finishing, packing, or processing, are not classified as hazardous use.

“*Mixed building use*” means a building containing more than one use classification.

“*Nonstructural alterations*” means modifications to an existing building which do not include any changes to structural members of a building, or do not modify means of egress, handicap accessible routes, fire resistivity or other life safety concerns.

“*Occupancy*” means a purpose for which a building, or part thereof, is used or intended to be used.

“*Outbuildings*” means the same as “accessory buildings.”

“*Place of assembly of people or public gathering*” means the use of a building or structure, or a portion thereof, for the gathering of persons such as for civic, social, or religious functions; recreation, food or drink consumption; or awaiting transportation. “Place of assembly of people or public gathering” is intended to encompass the uses listed in Group A of the 2015 International Building Code®. Places of assembly with occupancy of fewer than 50 people are considered part of the primary occupancy.

“*Residential use*” means the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an institutional use. “Residential use” is intended to encompass the uses listed in Group R of the 2015 International Building Code®.

“*Story*” means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above.

“*Structural members*” consists of building elements which carry an imposed load of weight and forces in addition to their own weight including, but not limited to, loads imposed by forces of gravity, wind, and earthquake. Structural members include, but are not limited to, footings, foundations, columns, load-bearing walls, beams, girders, purlins, rafters, joists, trusses, lintels, and lateral bracing.

“*Use*” means the same as “occupancy.”

“*Warehouses*” or “*warehouse use*” means the use of a building or structure, or portion thereof, for storage that is not classified as a hazardous use. “Warehouse use” is intended to encompass the uses listed in Group S of the 2015 International Building Code®.

193B—5.2(544A) Exceptions. An architect licensed in this state is required to perform professional architectural services for all buildings except those listed in Iowa Code 544A.18.

193B—5.3(544A) Building use. The following criteria are used when applying the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A):

5.3(1) Building use takes priority over size. In all cases, the use of the building takes priority over the size. For example, a place of assembly is not a commercial use, and would not constitute an exception even if the building is not more than one story in height and does not exceed more than 10,000 square feet in gross floor area.

5.3(2) Mixed building use. In the case that a building contains more than one use, the most stringent use is applied to the entire building when applying the exceptions. For example, a two-story building containing a 6,000 square foot commercial space as well as 6,000 square feet of residential space on the second floor would be considered a 12,000 square foot, two-story commercial building for the purposes of the exception matrix.

5.3(3) Agricultural buildings. Activities inherent to housing farm implements, farm inputs, farm products, and livestock or other agricultural products, such as record keeping, sanitation, storage of farm inputs, or equipment preparation, repair, or modifications, are not be construed as a use in and of itself for the purposes of applying the exceptions. For example, welding operations to repair an implement or grain-handling equipment would not trigger the consideration of an agricultural building or a portion of the building as an industrial use.

5.3(4) Churches and accessory buildings. When under the height and gross floor area noted in the exception and encompassing uses inherent to a church or an accessory building as defined, these buildings are exempted, even if the use within the building would normally not be exempted. For example, a church used as a place of assembly with occupancy of more than 50 people but still under the height and gross floor area noted would still be exempted even though the occupancy would place the building in the nonexempted category.

193B—5.4(544A) Exceptions matrix. The following matrix is compiled to illustrate the exceptions outlined in Iowa Code section 544A.18. The laws and rules governing the Practice of Engineering are not illustrated herein.

BUILDINGS NEW CONSTRUCTION			
Agricultural use	Including grain elevators and feed mills		X
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet of gross floor area	X	
Detached residential use	More than two stories in height	X	
	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational use		X	
Hazardous use		X	
Industrial use		X	
Institutional use		X	

Light industrial use			X
Places of assembly		X	
Warehouse use Factory-built buildings	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
	Any height and size, if certified by a professional engineer licensed under Iowa Code chapter 542B		X
	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

ALTERATIONS TO EXISTING BUILDINGS			
Structural alterations to exempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X
Structural alterations to nonexempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X	
Nonstructural alteration	Which does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns		X
	Which maintains the previous type of use		X

Nonstructural alteration which changes the use of the building from any other use to:	A place of assembly of people or public gathering		X	
	Educational use		X	
	Hazardous use		X	
	Residential use exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		X
Residential use not exempted otherwise	and is more than three stories in height		X	
	and containing more than 12 family dwelling units		X	
Nonstructural alterations which change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	

Nonstructural alterations to:	Agricultural use	Including grain elevators and feed mills		X
	Churches and accessory building uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
	Detached residential buildings	More than two stories in height	X	
		One, two or three stories in height, containing 12 or fewer family dwelling units		X
		More than 12 family dwelling units	X	
		More than three stories in height	X	

		Outbuildings in connection with detached residential buildings		X
	Educational use		X	
	Hazardous use		X	
	Industrial use		X	
	Institutional use		X	
	Light industrial use			X
	Places of assembly		X	
	Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		More than one story in height	X	
	Factory-built buildings	Any height and size if entire building is certified by a professional engineer licensed under Iowa Code chapter 542B		X
		One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X
		One or two stories in height, greater than 20,000 square feet in gross floor area	X	

	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

These rules are intended to implement Iowa Code section 544A.18.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	250
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/25/2023	Total Rule Count:	7
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides Iowans, licensees, and their employers with information about the disciplinary process and possible actions against licensed architects. The public knows that the board can impose violations for violations of the board’s rules. The public has the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

Yes, these administrative rules allow the board the authority to review and investigate alleged acts or omissions of licensed architects.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Licensees are responsible for costs associated with disciplinary actions. Civil penalties are capped at \$1000 per instance.

What are the costs to the agency or any other agency to implement/enforce the rule?

Shared staff at approximately .5 of an FTE support the entirety of the work of the board. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code staff play a critical role. Because there are only a small number of complaints submitted, costs are extremely low.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

6.2 removes unnecessary language.
6.4 removes unnecessary language.
6.5 removes unnecessary language.
6.6 removes unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 6
DISCIPLINARY ACTION AGAINST LICENSEES

193B—6.1(544A,272C) Disciplinary action. The architectural examining board has authority in Iowa Code chapters 544A,17A and 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

193B—6.2(544A,272C) Investigation of complaints. The board, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board may take no further action.

193B—6.3(544A,272C) Peer investigative committee. A peer investigative committee may be appointed by the chairperson to investigate a complaint. The committee members will consist of one or more architects that have been licensed to practice in Iowa for at least five years, serving at the discretion of the chairperson. The committee will review and determine the facts of the complaint and make a report to the board in a timely manner.

193B—6.4(544A,272C) Investigation report. Upon completion of the investigation, the investigator(s) will prepare for the board's consideration a report containing the position or defense of the licensee to determine what further action is necessary. The board may:

1. Order the matter be further investigated.
2. Allow the licensee who is the subject of the complaint an opportunity to appear before a committee of the board for an informal discussion regarding the circumstances of the alleged violation.
3. Determine there is no probable cause to believe a disciplinary violation has occurred and close the case.
4. Determine there is probable cause to believe that a disciplinary violation has occurred.

193B—6.5(544A,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion.

Unless disqualification is waived by the licensee, board members who personally investigated a disciplinary complaint are disqualified from making decisions at a later formal hearing. Because board members generally rely upon staff, investigators, auditors, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making, licensees who desire to attend an informal discussion will therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.

193B—6.6(544A,272C) Decisions. The board will make findings of fact and conclusions of law and may take one or more of the following actions:

- 6.6(1) Dismiss the charges.
- 6.6(2) Revoke the architect's license.
- 6.6(3) Suspend the licensee's license as authorized by law.
- 6.6(4) Impose civil penalties, not to exceed \$1000. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code sections 544A.13 and 544A.15 and these rules. Factors the board may consider when

determining whether to assess civil penalties and the amount to assess include:

- a. Whether other forms of discipline are being imposed for the same violation.
 - b. Whether the amount imposed will be a substantial deterrent to the violation.
 - c. The circumstances leading to the violation.
 - d. The severity of the violation and the risk of harm to the public.
 - e. The economic benefits gained by the licensee as a result of the violation.
 - f. The interest of the public.
 - g. Evidence of reform or remedial action.
 - h. Time lapsed since the violation occurred.
 - i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
 - j. The clarity of the issues involved.
 - k. Whether the violation was willful and intentional.
 - l. Whether the licensee acted in bad faith.
 - m. The extent to which the licensee cooperated with the board.
 - n. Whether the licensee practiced architecture with a lapsed, inactive, suspended or revoked certificate of licensure.
- 6.6(5) Impose a period of probation, either with or without conditions.
- 6.6(6) Require reexamination, using one or more parts of the examination given to architectural licensee candidates.
- 6.6(7) Require additional professional education, reeducation, or continuing education.
- 6.6(8) Issue a citation and a warning.
- 6.6(9) Issue a consent order.

193B—6.7(544A,272C) Voluntary surrender. Voluntary surrender of licensure is considered as disciplinary action. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

These rules are intended to implement Iowa Code section 544A.13 and chapter 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	35
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	11

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Architectural Examining Board	Date:	8/25/2023	Total Rule Count:	3
IAC #:	193B	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	544A.29
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	515-725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides Iowans with information about the disciplinary process and possible actions against those who practice architecture without a license. The public knows that the board can impose violations for violations of the board's rules. The public has the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline for unlicensed practice ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

Yes, these administrative rules allow the board the authority to review and investigate alleged unlicensed practice of architecture per the statute.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public. Those who have been found to have practice without a license are responsible for costs associated with disciplinary actions.

What are the costs to the agency or any other agency to implement/enforce the rule?

Shared staff at approximately .5 of an FTE support the entirety of the work of the board. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code staff play a critical role. Because there are only a small number of complaints submitted, costs are extremely low.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

7.2 removes unnecessary language.
7.3 removes unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 7
DISCIPLINARY ACTION—UNLICENSED PRACTICE

193B—7.1(544A,272C) Disciplinary action. The architectural examining board has authority in Iowa Code chapters 544A,17Aand 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

193B—7.2(544A,272C) Investigation of complaints. The board, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts which the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts which constitute a basis for disciplinary action, the board may take no further action.

193B—7.3(544A) Civil penalties against unlicensed person. The board may impose civil penalties by order against a person who is not licensed as an architect pursuant to Iowa Code chapter 544A based on the unlawful practices specified in Iowa Code section 544A.15(3). In addition to the procedures set forth in Iowa Code section 544A.15(3), this rule applies.

7.3(1) The notice of the board's intent to impose a civil penalty required by Iowa Code section 544A.15(3) may be served upon the unlicensed person by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty.
- e. Notice of the unlicensed person's right to a hearing and the time frame in which a hearing is requested.
- f. The address to which written request for hearing is made.

7.3(2) Unlicensed persons needs to request a hearing in writing within 30 days of the date the notice is mailed, if served through restricted certified mail to the last-known address, or within 30 days of the date of service, if service is accepted or made in accordance with Rule of Civil Procedure 1.305. A request for hearing is deemed made on the date of the United States Postal Service postmark or the date of personal service.

7.3(3) If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

7.3(4) If a request for hearing is timely made, the board issues a notice of hearing and conducts a hearing in the same manner as applicable to disciplinary cases against licensed architects.

7.3(5) In addition to the factors set forth in Iowa Code section 544A.15(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

- a. The time lapsed since the unlawful practice occurred.
- b. Evidence of reform or remedial actions.
- c. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
- d. Whether the violation involved an element of deception.
- e. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
- f. The clarity of the issue involved.
- g. Whether the violation was willful and intentional.
- h. Whether the unlicensed person acted in bad faith.
- i. The extent to which the unlicensed person cooperated with the board.

7.3(6) An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

7.3(7) The notice of intent to impose civil penalty and order imposing civil penalty are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, the National

Council of Architectural Registration Boards, and other entities. Hearings are open to the public.
These rules are intended to implement Iowa Code section 544A.15.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	53
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	12

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	8
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	9	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to Iowans because it publically defines the parameters around complaints, investigations and discipline actions. This is important to both the public and to the licensee because it creates a shared understanding. When professional standards are not met it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no known costs to the public.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000 per public offense.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.19 of an FTE. This additionally includes questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that Iowans receive professional services from competent practitioners.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

9.1 removed unnecessary and restrictive language.
9.2 removed unnecessary and restrictive language.
9.6 removed unnecessary and restrictive language.
9.7 removed unnecessary and restrictive language.
9.8 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 9
COMPLAINTS, INVESTIGATIONS AND DISCIPLINARY ACTION
[Prior to 11/14/01, see 193C—Chapter 4]

193C—9.1(542B) Complaints and investigations.

9.1(1) Complaints. The board, upon receipt of a complaint or upon its own motion pursuant to other evidence received by the board, reviews and investigates alleged acts or omissions which reasonably constitute cause under applicable law or administrative rule for licensee discipline. Complaints may be submitted to the board office via the board's website by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, licensees, or other individuals or entities with knowledge of possible violations of laws or rules by licensees.

9.1(2) Form and content. A written complaint may be submitted on forms available from the board office and on the board's website. The written complaint shall include the following information:

- a. The full name, address, and telephone number of complainant.
- b. The full name, address, and telephone number of the individual against whom the complaint is filed.
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. Citation of the statutes and administrative rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, that have been taken by the complainant to resolve the dispute with the respondent prior to the filing of the complaint.

9.1(3) Initial complaint screening. All written complaints received by the board are initially screened by the board’s administrator to determine whether the allegations of the complaint fall within the board’s investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board’s jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous will be referred by the board administrator to the board for closure at the next scheduled board meeting. All other complaints are referred by the board administrator to the board’s disciplinary committee for committee review.

9.1(4) Investigation of allegations. In order to determine if probable cause exists for a hearing on the complaint, the board may cause an investigation to be made into the allegations of the complaint. It may refer the complaint to a peer review committee or investigator for investigation, review and report to the board.

9.1(5) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. It is not necessary for the licensee to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board member or staff, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board’s investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.

9.1(6) Immunity. Complainants are immune from civil liability under Iowa Code section 272C.8.

9.1(7) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which the board may initiate based in whole or in part on information provided by the complainant.

9.1(8) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—9.2(542B) Ruling on the initial inquiry.

9.2(1) Dismissal. If a determination is made by the board that a complaint is without grounds or merit, the complaint will be dismissed. A letter of explanation concerning the decision of the board will be sent to the respondent and the complainant.

9.2(2) Requirement of further inquiry. If determination is made by the board to order further inquiry, the complaint and initial recommendations will be provided to the investigator(s) along with a statement specifying the information deemed necessary.

9.2(3) Acceptance of the case. If a determination is made by the board to initiate disciplinary action the board may enter into an informal settlement or recommend formal disciplinary proceedings. The board’s rules regarding informal settlement are found at 193—7.4(17A,272C).

This rule is intended to implement Iowa Code sections 542B.21, 542B.22 and 272C.6.

193C—9.3(17A,272C,542B,546) Grounds for discipline. The board has authority pursuant to Iowa Code chapters 542B, 17A and 272C to impose discipline for violations of those chapters and the rules promulgated thereunder and may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the grounds identified in Iowa Code section 542B.21.

9.3(1) Fraud or deceit in procuring or attempting to procure an initial, comity, renewal, or reinstated license includes

any intentional perversion of or reckless disregard for the truth when an application, or information in support of another's application, is submitted to the board, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.
- b. Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, or continuing education certificate.
- c. Reporting information, such as satisfaction of continuing education, in a false manner, through overt deceit, or with reckless disregard for the truth or accuracy of the information asserted.
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

9.3(2) Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the practice of engineering or land surveying.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimum standards of acceptable and prevailing practice of engineering or land surveying in this state, including the land surveying standards set forth in Iowa Code chapters 354 and 355 and 193C—Chapters 11 and 12.
- e. Engaging in engineering or land surveying practices which are outside the technical competence of the licensee without taking reasonable steps to associate with a competent licensee or other steps to ensure competent practice.
- f. Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including acts or omissions described in 193C—8.3(542B).

9.3(3) Deceptive practices include, but are not limited to, the following:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of engineering or land surveying.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business or client records.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education or as a condition of probation, or in a reference submitted for an examination or a license applicant or in any reports identified in this rule or 193C—8.3(542B).
- f. Knowingly presenting as one's own the license, signature, or seal of another or of a fictitious licensee, or otherwise falsely impersonating a person holding an engineering or land surveying license.
- g. Representing oneself as a professional engineer or professional land surveyor after the license has been suspended, revoked, surrendered, or placed on inactive status or has lapsed.
- h. Fraud in representations as to skill or ability.
- i. Any violation of Iowa Code section 542B.16 or associated rules in 193C—Chapter 6 involving a licensee's seal or certificate.

9.3(4) Behaviors and conduct which are unethical or harmful or detrimental to the public include, but are not limited to, the following actions:

- a. A violation of the code of professional conduct in 193C—Chapter 8.
- b. Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of engineering or land surveying or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior could occur within such practice and, if so, would place the public at risk.
- c. Aiding or abetting a violation of a provision of Iowa Code section 542B.27(1).

9.3(5) Lack of proper qualifications, as provided in Iowa Code section 272C.3(2) "b." includes, but is not limited to:

- a. Continuing to practice as an engineer or land surveyor without satisfying the continuing education required for license renewal.
- b. Violation of Iowa Code 542B.21 (4), which adversely affects the licensee's ability to practice in a safe and competent manner.

9.3(6) Professional misconduct which includes, but is not limited to, revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. "Disciplinary action" includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate

court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated. A licensee shall notify the board of such disciplinary action within 30 days of the disciplinary action.

9.3(7) Willful or repeated violations include the willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542B or any administrative rule adopted by the board in the administration or enforcement of such chapters.

9.3(8) Conviction of felony includes the conviction of a felony under the laws of the United States, of any state or possession of the United States, or of any other country. The board will vacate any discipline based solely on a conviction, if that conviction is overturned or reversed by a court of last resort.

[**ARC 2022C**, IAB 6/10/15, effective 7/15/15; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

193C—9.4(542B) Disciplinary findings and sanctions. The board’s decision may include one or more of the following findings or sanctions:

1. Exoneration of respondent.
2. Revocation of license.
3. Suspension of license until further order of the board or for a specified period.
4. Nonrenewal of license.
5. Prohibition, until further order of the board or for a specific period, of engaging in specified procedures, methods or acts.

6. Probation.
7. Requirement of additional education or training.
8. Requirement of reexamination.
9. Issuance of a reprimand.
10. Imposition of civil penalties.
11. Issuance of citation and warning.
12. Desk review.
13. Other sanctions allowed by law as may be appropriate.

193C—9.5(272C) Civil penalties. In addition to other disciplinary options, the board may assess civil penalties of up to \$1000 per violation against licensees who violate any provision of rule 193C—9.3(17A,272C,542B,546). Factors the board may consider when determining whether and in what amount to assess civil penalties include:

1. Whether other forms of discipline are being imposed for the same violation.
2. Whether the amount imposed will be a substantial economic deterrent to the violation.
3. The circumstances leading to the violation.
4. The severity of the violation and the risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time elapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issue involved.
11. Whether the violation was willful and intentional.
12. Whether the licensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether the licensee practiced professional engineering or professional land surveying with a lapsed, inactive, suspended or revoked license.

This rule is intended to implement Iowa Code section 542B.22.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12]

193C—9.6(542B) Publication of decisions. In addition to publication requirements found at 193—subrule 7.30(3), the following notifications shall be issued:

1. Following suspension of a professional land surveyor’s license, notification must be issued to the county recorders and county auditors of the county of residence and immediately adjacent counties in Iowa.
2. Following revocation of a professional land surveyor’s license, notification must be mailed to all county auditors in Iowa and the county recorders in the county of residence and immediately adjacent counties in Iowa.
3. Following the suspension or revocation of the license of a professional engineer or professional land surveyor, notification is issued to other boards of examiners for engineers and land surveyors under the jurisdiction of the government

of the United States. This notification may be made through the National Council of Examiners for Engineering and Surveying or other national organizations recognized by the board. In addition, if the licensee is known to be registered in another nation in North America, the appropriate board(s) are notified of the action.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

193C—9.7(542B) Disputes between licensees and clients. Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or professional land surveyors and their clients may be referred to counsel or peer review committee. The counsel or peer review committee will investigate the report for violation of the statutes or rules governing the practice or conduct of the licensee. The counsel or peer review committee will advise the board of any probable violations, any further action required, or recommend dismissal from further consideration.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12]

193C—9.8(272C,542) Confidentiality of complaint and investigative information.

9.8(1) General provisions. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information shall not be released to any person except as provided in that section.

9.8(2) Disclosure to the subject of the investigation.

a. Legal authority. Pursuant to Iowa Code Supplement section 546.10(9) [2007 Iowa Acts, Senate File 360, section 7], the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

b. General rule. As a matter of general policy, the board will not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

c. Exceptions to general rule. The board may exercise its discretion to release information to a licensee that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee and prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review or investigative report or expert opinions, as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including those initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

(3) The board may release information from a peer review or consultant's report when soliciting the licensee's position will aid in making the probable cause determination and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.

These rules are intended to implement Iowa Code chapter 17A and sections 542B.2, 542B.22, and 272C.6.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	87
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	5
IAC #:	193C	Chapter/ SubChapter / Rule(s):	1	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide basic information on the structure and function of the board, and providing definitions that will be helpful in understanding rules in other chapters

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the public.

What are the costs incurred by the public to comply with the rule?

None. No fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits because staff plays a role in protecting lowans.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

These rules will aid licensees and the general public better understand the remaining chapters of the rules.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

1.2 removes unnecessary language and redundancies.

1.5 removes unnecessary language and redundancies.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 1
ADMINISTRATION

193C—1.1(542B) General statement. The practices of engineering and land surveying affect the life, health, and property of the people in Iowa. The engineering and land surveying examining board’s principal mandate is the protection of the public interest.

1.1(1) Administration. Administration of the board has not been separated into panels, divisions, or departments. While the expertise of a board member may be called upon to frame special examinations and evaluate applications for licensing in a specialized engineering branch, the board functions in a unified capacity on all matters that may come before it. The board maintains an office at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, and requests or submissions may be directed to the secretary of the board at that location.

1.1(2) Meetings. Regular meetings of the board are held in Des Moines, Iowa. Information concerning the location and dates for meetings may be obtained from the board’s office at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, or by telephoning (515)725-9022.

[ARC 4206C, IAB 1/2/19, effective 2/6/19; ARC 5953C, IAB 10/6/21, effective 11/10/21]

193C—1.2(542B) Definitions. For the purposes of these rules, the following definitions apply:

“*Accredited*” means a program accredited by the Accreditation Board for Engineering Technology, Inc. (ABET) or the Canadian Engineering Accreditation Board (CEAB) or another accrediting body accepted by the National Council of Examiners for Engineering and Surveying (NCEES).

“*Board*” means the engineering and land surveying examining board provided by chapter 542B of the Iowa Code.

“*Design coordination*,” as defined in Iowa Code section 542B.2, subsection 2.

“*Engineering documents*” as defined in Iowa Code 542B.2 subsection 4

“*Engineering survey*,” as used in the definition of the practice of engineering, includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the survey of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land system.

“*Engineer intern*” as defined in Iowa Code 542B.2 subsection 3

“*In responsible charge*” as defined in Iowa Code 542B.2 subsection 6

“*Land surveying documents*” as defined in Iowa code 542B.2 subsection 7

“*Practice of engineering*” as defined in Iowa Code 542B.2 subsection 9a-b, additionally,

- Environmental engineering activities which may be involved in developing plans, reports, or actions to remediate an environmentally hazardous site;
- Design of fixturing devices for manufacturing machinery that must be performed by a licensed professional engineer or under the responsible charge and direct supervision of a professional engineer unless performed within the industrial exemption by a full-time employee of a corporation which constructs the fixtures.

3. Activities that the board will construe as the practice of engineering for which the board may by order impose a civil penalty upon a person who is not licensed as a professional engineer are set out in Iowa Code section 542B.27.

“*Practice of land surveying*” as defined in Iowa Code 542B.2 subsection 10, additionally,

2. Activities that the board will

construe as the practice of land surveying and for which the board may by order impose a civil penalty upon a person who is not licensed as a professional land surveyor are set out in Iowa Code section 542B.27.

“Professional engineer” as defined in Iowa Code 542B.2 subsection 11

“Professional land surveyor” means a person who engages in the practice of land surveying as defined in this rule.

“Written,” when used to describe an examination, may mean a computer-based format.

[ARC 0362C, IAB 10/3/12, effective 11/7/12; ARC 0684C, IAB 4/17/13, effective 5/22/13]

193C—1.3(542B) Declaratory orders. The board’s rules regarding declaratory orders can be found in the uniform rules for the division of professional licensing and regulation at 193—Chapter 10.

193C—1.4(542B) Waivers.

1.4(1) The board’s rules regarding waivers can be found in the uniform rules for the division of professional licensing and regulation at 193—Chapter 5.

1.4(2) Interim rulings. The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

a. The executive secretary shall, upon receipt of a petition meeting all applicable criteria established in 193—Chapter 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

b. The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when:

(1) Board precedent does not clearly resolve the request and the input of the board is deemed required; and

(2) The practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

c. A waiver report will be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

d. This subrule on interim rulings does not apply if the waiver was filed in a contested case.

[ARC 5953C, IAB 10/6/21, effective 11/10/21]

193C—1.5(542B) Licensed professional engineers and building construction.

1.5(1) Purpose. This rule is intended to provide guidance to licensed professional engineers, other design professionals, unlicensed persons engaged in various aspects of building construction, building officials, owners, and others on when the services of a licensed professional engineer are required in connection with new building construction and alterations to existing structures.

1.5(2) General guidelines. Given the wide range of buildings covered by this rule and the unique issues which may arise with respect to specific buildings, it is not possible to establish definitive criteria which will universally resolve when building construction or alterations will or will not implicate the practice of professional engineering, as defined in Iowa Code sections 542B.2(8) and 542B.27(1). For example, while the construction of a single-family residence would not generally necessitate the services of a licensed professional engineer, unique or unconventional features of a particular site or design may necessitate complex structural calculations or other services which fall within the definition of professional engineering. As a result, this rule should be interpreted as providing only general guidelines on when a licensed professional engineer is necessary.

1.5(3) Applicability. The board will consider the guidelines provided in this rule when enforcing Iowa Code chapter 542B, including when determining whether an unlicensed person has engaged in the practice of professional engineering. This rule is not intended to constrain building officials or other public officials in their enforcement of other laws, rules, regulations or ordinances. A building code official, for example, may require that certain documents be prepared by a licensed professional engineer or that certain construction inspections be performed by a licensed professional engineer whether or not the guidelines in this rule would so require. This rule only addresses the practice of professional engineering and does not address the practice of architecture. Similar guidelines with respect to the practice of architecture may be found at 193B—Chapter 5.

1.5(4) Definitions. The definitions set forth in 193B—5.1(544A) apply to this rule.

1.5(5) Guidelines for new construction. The following matrix describes by building type and use when the services of a licensed professional engineer are required in connection with new building construction:

BUILDINGS NEW CONSTRUCTION			
Building Use Type	Description	Engineer Required	Eng

Agricultural Use	Facilities for private use only and individually owned and operated facilities including grain elevators and feed mills		
	Corporate-owned facilities or publicly owned facilities including grain elevators and feed mills	X	
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		
	Two stories in height, greater than 6,000 square feet in gross floor area	X	
	More than two stories in height	X	
Detached Residential Use	One, two or three stories in height, containing 12 or fewer family dwelling units		
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		
Educational Use		X	
Governmental Use	When the occupancy is of another building use type listed herein, those provisions apply	X	
Industrial Use		X	
Institutional Use		X	
Light Industrial Use			
Places of assembly		X	
Warehouse Use	One story in height, up to a maximum of 10,000 square feet in gross floor area		
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-Built Buildings	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

1.5(6) Guidelines for alterations to existing buildings. The following matrix describes by alteration type when the services of a licensed professional engineer are required or not in connection with alterations to existing buildings:

ALTERATIONS

TO EXISTING BUILDINGS				
Alteration Type	Description	Engineer Required		
Structural alterations to exempt buildings under Iowa Code section 544A.18	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns			
Structural alterations to buildings that are not exempt	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X		
Nonstructural alteration	Which does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns			
	Which maintains the previous type of use			
Nonstructural alteration which changes the use of the building from any other use to:	A place of assembly of people or public gathering	X		
	Governmental use	X		
	Educational use	X		
	Hazardous use	X		
	A place of residence exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		
	A place of residence not exempted otherwise	and is more than three stories in height	X	
and containing more than 12 family dwelling units		X		
Nonstructural alterations which change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	
		Agricultural Use	Including grain elevators and feed mills	
			Churches and Accessory Building Uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area
Commercial Use	Any number of stories in height, greater than 2,000 square feet in gross floor area	X		
	More than two stories in height	X		
	One story in height, up to a maximum of 10,000 square feet in gross floor area			
Nonstructural alterations to:	Commercial Use	One story in height, greater than 10,000	X	

	Detached Residential Buildings	square feet in gross floor area		
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	
		One, two or three stories in height, containing 12 or fewer family dwelling units		
		More than 12 family dwelling units	X	
		More than three stories in height	X	
		Outbuildings in connection with detached residential buildings		
	Educational Use		X	
	Governmental Use	When the occupancy is of another building use type listed herein, those provisions apply	X	
	Industrial Use		X	
	Institutional Use		X	
	Light Industrial Use			
	Places of Assembly		X	
	Warehouse Use	Factory-Built Buildings	One story in height, up to a maximum of 10,000 square feet in gross floor area	
			One story in height, greater than 10,000 square feet in gross floor area	X
			More than one story in height	X
			One or two stories in height, up to a maximum of 20,000 square feet of gross floor area	
			One or two stories in height, greater than 20,000 square feet in gross floor area	X
			More than two stories in height	X
	More than 20,000 square feet in gross floor area	X		

1.5(7) Architectural exceptions do not apply. The statutory exemptions in Iowa Code section 544A.18 do not apply to the practice of engineering. The construction of a building that falls within an exception in Iowa Code section 544A.18 may necessitate the services of an engineer if, for example: (a) there are structural elements which do not fall within building code definitions of conventional light frame construction, (b) the use of certain structural materials, members or components requires special inspections by engineers, or (c) HVAC, plumbing or electrical systems exceed certain building code standards. However, the matrix guidelines in this rule are generally compatible with the exceptions in Iowa Code section 544A.18 because the construction of buildings that fall outside the exceptions in Iowa Code section 544A.18 generally does implicate the practice of professional engineering in such disciplines as structural, electrical or mechanical engineering.

These rules are intended to implement Iowa Code sections 17A.9A, 542B.2 and 542B.3.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	439
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	2
IAC #:	193C	Chapter/ SubChapter / Rule(s):	2	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on the fees to acquire and maintain a license. Fees support the licensure program, including staff salaries, board per diems, and overhead costs.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, the licensure program is fully funded.

What are the costs incurred by the public to comply with the rule?

See the fee amounts in the table below.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Engineering-Surveying Fee Comparison
Regulatory Analysis
Active license renewal

	Iowa	Nebraska	Minnesota	Illinois	Missouri	South Dakota	Kansas
Active license renewal	\$100	\$80	\$120	\$30	\$35	\$80	\$70

	biennially		biennially			biennially	biennially
Inactive license renewal	\$40	n/a	n/a	n/a	n/a	\$40	n/a
Reinstatement of lapsed license	\$100	n/a	n/a	\$50	\$100	\$180	\$100
Reinstatement of inactive to active license	\$60	n/a	n/a	n/a	\$100	\$80	\$20
New or reinstated license	\$100	\$100/\$150	n/a	n/a	\$100	\$100	\$60
Principles and Practice of Land Surveying Exam App.	\$100		n/a	n/a	\$100	\$100	n/a
Iowa State Specific Land Surveying Examination	\$30	n/a	n/a	n/a	\$100	n/a	n/a
Application for licensure by comity as a professional engineer or professional land surveyor	\$150	\$150	\$100	\$150	\$200	\$100	\$250
Initial professional engineer or professional land surveyor certificate	\$15	\$50	\$120	n/a	\$50	\$15	\$60
Additional or duplicate certificate	\$25	\$50	n/a	n/a	\$10	\$15	\$20
Engineer or land surveyor intern certificate	No charge	\$25	n/a	\$70	\$10	\$5	n/a
Check returned for insufficient funds	\$15	\$30	n/a	n/a	\$25	\$30	n/a
Verification of records for lapsed licensees	\$15	n/a	n/a	\$20	n/a	n/a	n/a
Late renewal fee (for renewals completed after December 31 and before January 31)	\$25	\$8 per month	\$60	n/a	n/a	\$100	\$20

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

None

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 2
FEES AND CHARGES
[Prior to 11/14/01, see 193C—1.9(542B)]

193C—2.1(542B) General statement. Fees are fixed in such an amount as will defray the expense of administering board

responsibilities. Fees are charged in accordance with the following table:

Type of fee	
Renewal	
Active license renewal	
Inactive license renewal	
Reinstatement of lapsed license (In addition to the reinstatement fee, the applicant for reinstatement must also pay the appropriate prorated reinstated license fee below.)	
Reinstatement of inactive to active license	
New or reinstated license (In addition to the appropriate prorated reinstated license fee, the applicant for reinstatement must also pay the reinstatement fee above.)	Pro
Application for examination	
Principles and Practice of Land Surveying	
Examinations	
Fees for NCEES examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses.	
Iowa State Specific Land Surveying Examination	
Application for licensure by comity or verification as a professional engineer or professional land surveyor	
Certificates	
Initial professional engineer or professional land surveyor certificate	
Additional or duplicate certificate	
Engineer or land surveyor intern certificate	
Check returned for insufficient funds	
Verification of records for lapsed licensees	\$15
Late renewal fee (for renewals completed after December 31 and before January 31)	

[[ARC 8584B](#), IAB 3/10/10, effective 4/14/10; [ARC 0362C](#), IAB 10/3/12, effective 11/7/12; [ARC 5953C](#), IAB 10/6/21, effective 11/10/21]

193C—2.2(542B) Nonrefundable fees. Application fees submitted with applications for the Fundamentals of Engineering examination, the Fundamentals of Land Surveying examination, the Principles and Practice of Engineering examination, the Principles and Practice of Land Surveying examination, comity licensure, or for renewal of licensure are not refundable for any reason.

These rules are intended to implement Iowa Code sections [542B.13](#), [542B.15](#), [542B.20](#) and [542B.30](#).

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	5
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	5
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	3	Iowa Code Section Authorizing Rule:	542B.6
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on the application and renewal processes.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the future and current licensees.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase

efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

3.1(2) removed unnecessary language
3.4(4) removed restrictive language
3.4(8) removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 3
APPLICATION AND RENEWAL PROCESS
[Prior to 11/14/01, see 193C—Chapter 1]

193C—3.1(542B) General statement. A person requesting to be licensed as a professional engineer or professional land surveyor shall submit a completed, standardized application form, which may be obtained electronically from the board's Internet web page.

3.1(1) Application expiration. On the examination and comity applications due date, the applications are considered current if it has been one year or less since the applications were received by the board office.

3.1(2) Academic transcripts.

a. *United States institutions.* Completion of post-high school education shall be evidenced by the board's receipt of an applicant's transcripts directly from the office of the registrar of each institution conferring a qualifying degree.

b. *Institutions outside the United States.* Transcripts from institutions located outside the boundaries of the United States of America shall be sent directly from the institution to an evaluation service to be evaluated for authenticity and substantial equivalency with Accreditation Board for Engineering and Technology, Inc. (ABET) or Engineering Accreditation Commission (EAC) accredited engineering programs. To be readily acceptable, such evaluations shall be from the National Council of Examiners for Engineering and Surveying (NCEES). However, the board may accept evaluations from other recognized foreign credential evaluators satisfactory to the board. The expense of the evaluation is the responsibility of the applicant. Each evaluation shall be sent directly to the board from the evaluation service and include a copy of the transcript in the form sent to the evaluation service directly from the educational institution. Each evaluation must address both whether the transcript is authentic and whether the engineering program is equivalent to those accredited by ABET or EAC.

[**ARC 9462B**, IAB 4/20/11, effective 5/25/11; **ARC 0362C**, IAB 10/3/12, effective 11/7/12; **ARC 4206C**, IAB 1/2/19, effective 2/6/19; **ARC 5953C**, IAB 10/6/21, effective 11/10/21]

193C—3.2(542B) Application components and due dates.

3.2(1) Fundamentals of Engineering examination. Applications for the Fundamentals of Engineering examination are submitted directly to the examination service selected by the board to administer the examinations.

3.2(2) Fundamentals of Land Surveying examination application components and due dates. The components of this application include: the completed application form, references pursuant to 193C—paragraph 5.1(5) "b" and transcripts. Fundamentals of Land Surveying examination applications must be submitted to the board office. Applications submitted by the first day of each month will be reviewed by the board at the next regularly scheduled board meeting.

3.2(3) Principles and Practice of Engineering examination application. Principles and Practice of Engineering examination applications are submitted directly to the examination service selected by the board. Documentation of a qualifying degree will be required prior to approval to sit for the examination.

3.2(4) Principles and Practice of Land Surveying application components and due dates. Principles and Practice of Land Surveying examination applications are submitted to the board office. Application files with all components submitted to the board office by the first day of each month will be reviewed at the next regularly scheduled board meeting. The examination application file includes the following components: (a) the completed online application form, (b) the required number of references, (c) the project statement, and (d) the ethics questionnaire. In addition, a complete application file includes verification of examination records and transcripts. Examination applications will not be reviewed by the board until the application file is complete..

3.2(5) Professional engineer license application. Professional engineer license applications are submitted to the board office. Application files with all components submitted to the board office by the first day of each month will be reviewed at the next regularly scheduled board meeting. The professional engineer license application includes the following components: (a) the completed online application form, (b) the required number of references, (c) the project statement, and (d) the ethics questionnaire. In addition, a complete application file includes verification of examination records and transcripts. Professional engineer license applications will not be reviewed until the application file is complete.

[**ARC 7754B**, IAB 5/6/09, effective 6/10/09; **ARC 1349C**, IAB 2/19/14, effective 3/26/14; **ARC 2388C**, IAB 2/3/16, effective 3/9/16; **ARC 4206C**, IAB 1/2/19, effective 2/6/19; **ARC 5953C**, IAB 10/6/21, effective 11/10/21]

193C—3.3(542B) Comity applications.

3.3(1) The components of a comity application include: the completed application form; the ethics questionnaire; references; transcripts; and verification of examinations, as appropriate. Comity applicants may submit the NCEES record in lieu of providing references, verifications, transcripts, and employment history. Since the verification of examination records must, in most cases, be sent directly from the jurisdiction where the applicant took the Fundamentals of Engineering and Principles and Practice Engineering examinations, the applicant should contact the other jurisdiction in advance of submitting the application to request this verification and make every effort to have the verification sent to the board at the time that the application is submitted. Likewise, for transcripts the applicant should contact the university in advance of submitting the application to make every effort to have the transcripts transmitted to the board at the time that the application is submitted.

3.3(2) Comity applications will be reviewed as they are completed. Comity applications will not be reviewed until all components have been received.

3.3(3) Comity applicants will be notified in writing via regular mail or email regarding the results of the review of their applications.

3.3(4) Temporary license. The board does not issue temporary licenses, except as provided for in rule 193C—5.3(542B,272C).

[**ARC 7754B**, IAB 5/6/09, effective 6/10/09; **ARC 5564C**, IAB 4/21/21, effective 5/26/21; **ARC 5953C**, IAB 10/6/21, effective 11/10/21]

193C—3.4(542B) Renewal applications.

3.4(1) Expiration dates. Certificates of licensure expire biennially on December 31. Certificates that were initially issued in even-numbered years expire in odd-numbered years and certificates that were initially issued in odd-numbered years expire in even-numbered years. In order to maintain authorization to practice engineering or land surveying in Iowa, licensees must renew their certificates of licensure on or prior to the expiration date. A licensee who fails to renew prior to the date the certificate expires is not authorized to practice in Iowa unless the certificate is reinstated as provided in these rules. However, the board will accept an otherwise sufficient renewal application which is untimely if the board receives the application and late fee within 30 days of the date of expiration.

3.4(2) Renewal notification. The board typically mails a renewal notification to a licensee's last-known address at least one month prior to the license expiration date. Neither the board's failure to mail a renewal notification nor the licensee's failure to receive a renewal notification affects in any way the licensee's duty to timely renew if the licensee intends to continue practicing in Iowa. Licensees need to contact the board office if they do not receive a renewal notification prior to the expiration date.

3.4(3) Renewal process. Upon receipt of a timely and sufficient renewal application, with the proper fee, the board's executive secretary will issue a new license reflecting the next expiration date, unless grounds exist for denial of the application.

3.4(4) Notification of expiration. The board will notify licensees whose certificates of licensure have expired. The failure of the board to provide this courtesy notification, or the failure of the licensee to receive the courtesy notification, does not extend the date of expiration.

3.4(5) Sanction for practicing after license expiration. A licensee who continues to practice in Iowa after the license has expired is subject to disciplinary action. Such unauthorized activity may also provide grounds to deny a licensee's application to reinstate.

3.4(6) Timely and sufficient renewal application. Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application shall be:

- a. Received by the board through the online renewal process;
- b. Fully completed; and
- c. Accompanied by the proper fee. The fee is deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is left off the application or is incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

3.4(7) Responsibility for accuracy of renewal application. The licensee is responsible for verifying the accuracy of the information submitted on the renewal application regardless of how the application is submitted or by whom it is submitted..

3.4(8) Denial of renewal application. If the board, upon receipt of a timely, complete and sufficient application to renew a certificate of licensure, accompanied by the proper fee, denies the application, the executive secretary will send written notice to the applicant by restricted, certified mail, return receipt requested, identifying the basis for denial. The applicant may contest the board's decision as provided in 193—7.40(546,272C).

3.4(9) Continuing education. A licensee who does not satisfy the continuing education requirements for licensure renewal will be denied renewal of licensure in accordance with subrule 3.4(8).

3.4(10) Consent order option. When a licensee appears to be in violation of mandatory continuing education under 193C—Chapter 7, the board may, in lieu of proceeding to a contested case hearing on the denial of renewal as provided in uniform division rule 193—7.40(546,272C), offer the licensee the opportunity to sign a consent order. While the terms of a consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation, and establish deadlines for compliance, and the consent order may impose additional educational requirements upon the licensee. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and, if the terms of the consent order are not complied with, will be subject to disciplinary action. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to uniform division rule 193—7.40(546,272C).

3.4(11) Inactive status. Licensees who are not engaged in engineering or land surveying practices that require licensure in Iowa may be granted inactive status. No inactive licensee may practice in Iowa unless otherwise exempted in Iowa Code chapter 542B.

[ARC 5953C, IAB 10/6/21, effective 11/10/21]

193C—3.5(542B) Reinstatement of licensure.

3.5(1) To reinstate a license that has lapsed for one year or more, the applicant for reinstatement must pay the fee under 193C—2.1(542B) and satisfy one of the following:

- a. Provide documentation of 45 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 30 professional development hours for each profession); or

b. Successfully complete the principles and practice examination within one year immediately prior to application for reinstatement; or

c. For an applicant for reinstatement who is an out-of-state resident, submit a statement from the resident state's licensing board as documented evidence of compliance with the resident state's mandatory continuing education during the period that the licensee's Iowa license was lapsed. ~~The statement shall bear the seal of the licensing board.~~ An applicant for reinstatement whose resident state has no mandatory continuing education shall comply with the documented evidence as outlined in this subrule and at 193C—subrule 7.8(2).

3.5(2) To reinstate a license that has lapsed for less than one year, the applicant for reinstatement must pay the fee under 193C—2.1(542B) and satisfy one of the following:

a. Provide documentation of 30 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 20 professional development hours for each profession). Professional development hours used for reinstatement shall not be reused at the next renewal; or

b. Successfully complete the principles and practice examination within one year immediately prior to application for reinstatement; or

c. For an applicant for reinstatement who is an out-of-state resident, submit a statement from the resident state's licensing board as documented evidence of compliance with the resident state's mandatory continuing education requirement during the period that the licensee's Iowa license was lapsed. The statement shall bear the seal of the licensing board. An applicant for reinstatement whose resident state has no mandatory continuing education requirement shall comply with the documented evidence requirement as outlined in this subrule and at 193C—subrule 7.8(2).

3.5(3) A lapsed license may not be reinstated to inactive status.

3.5(4) To reinstate from inactive status to active status, the applicant for reinstatement must pay the fee under 193C—2.1(542B) and provide documentation of 45 professional development hours achieved within the current and previous biennium (dual licensees must provide documentation of 30 professional development hours for each profession). Professional development hours used for a reinstatement shall not be reused at the next renewal.

[ARC 5953C, IAB 10/6/21, effective 11/10/21]

These rules are intended to implement Iowa Code sections 542B.2, 542B.6, 542B.13, 542B.14, 542B.15, 542B.20, 542B.30, 272C.2 and 272C.3.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	334
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	3
IAC #:	193C	Chapter/ SubChapter / Rule(s):	4	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on compliance to become licensed as a professional engineer. Professional licensing ensures a baseline level of proven qualifications and expertise, which helps protect the public from unqualified practitioners.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the future licensees.

What are the costs incurred by the public to comply with the rule?

The average cost of a college education is \$36,500 per year. The costs of the exam is \$550. Experience for the license is acquired through paid employment.

What are the costs to the agency or any other agency to implement/enforce the rule?

Regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits because staff plays a role in protecting Iowans.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

According to the National Society of Professional Engineers, all states require a four-year degree, passing two exams, and four years of engineering experience.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

4.1 removed unnecessary and restrictive language
4.2 removed unnecessary and restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 4
ENGINEERING LICENSURE
[Prior to 11/14/01, see 193C—1.4(542B)]

193C—4.1(542B) Licensure by examination. The board will issue initial licensure only when an applicant satisfies Iowa Code section 542B.14 as follows:

4.1(1) An applicant is eligible for the engineer in training certificate by meeting one of the following educational standards:

a. Graduation from an engineering program of four years or more with an Accreditation Board of Engineering and Technology/Engineering Accreditation Commission (ABET/EAC)- or Canadian Engineering Accreditation Board (CEAB)-accredited curriculum. An engineering technology curriculum does not constitute an engineering program of four years or more.

b. After graduation from a non-accredited engineering program as described above of four years or more, the applicant will complete one extra year of practical experience satisfactory to the board, verified by a professional engineer (PE) supervisory reference.

c. Graduation with a master's degree in engineering from an institution in the United States of America which offers an accredited bachelor's degree in the same curriculum. The master's degree or a doctor of philosophy degree candidate must fulfill the requirements for the bachelor's degree in the same area of specialization.

d. An applicant with a master's degree or a doctor of philosophy degree in engineering from an institution in the United States of America that does not offer an accredited bachelor's degree in the same curriculum will be required to have an additional year of qualifying experience obtained after receipt of the qualifying degree. Applicants using a master's degree or a doctor of philosophy degree as the qualifying degree may not also use the master's degree or a doctor of philosophy degree for qualifying experience credit or as an exemption for the Fundamentals of Engineering examination.

4.1(2) An applicant must successfully complete the Fundamentals of Engineering examination (FE exam).

a. An applicant may take the FE exam any time after the educational requirements as specified above are completed, but the applicant must successfully complete the FE exam prior to taking the Principles and Practice of Engineering examination.

b. College seniors studying an ABET/EAC- or CEAB-accredited curriculum may take the FE exam during the final academic year. Applicants will be permitted to take the examination during the testing period which most closely precedes anticipated graduation.

c. An applicant who graduated from a satisfactory engineering program and has ten years or more of work experience satisfactory to the board is not required to take the FE exam. This experience is in addition to the four or five years of experience necessary for the PE license.

d. An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, is not required to take the FE exam.

e. FE exam candidates will apply directly to the National Council of Examiners for Engineering and Surveying

(NCEES) and will self-attest as to the candidate's eligibility to sit for the FE exam. The board will verify acceptable education and experience at the time an applicant applies for an Engineer in Training (EIT) number. The board shall apply the education and experience standards set forth in this rule but may allow reasonable flexibility in timing in the event an applicant sat for and passed the FE exam at a point earlier than provided in this rule. The board will not, however, issue an EIT number unless all experience required for candidates who hold engineering degrees from nonaccredited programs has been satisfied at the time of the EIT application.

4.1(3) An applicant successfully completes the Principles and Practice of Engineering examination (PE exam).

a. An applicant may take the PE exam any time after passing the FE exam.

b. PE exam candidates will apply directly to the NCEES. The applicant will document a qualifying education.

The board will verify acceptable experience at the time the applicant applies for a professional engineer license.

4.1(4) An applicant obtains satisfactory practical experience in engineering work as follows:

a. *Oversight.* An applicant has direct supervision or professional tutelage (instruction, guidance, mentoring, review, and critique) from one or more licensed professional engineers. This experience will be verified by one or more licensed professional engineers who are familiar with the applicant's work and can attest that the experience was of the required quality and was accurately described. Verification of the qualifying experience is provided through the reference forms. It is the responsibility of the applicant to provide reference forms to the licensed professional engineers to complete and return directly to the board.

(1) To be readily acceptable, all of the practical experience is under the direct supervision and tutelage of one or more licensed professional engineers.

(2) To be considered, a portion of the qualifying experience is under the direct supervision or tutelage of one or more licensed professional engineers, and the rest of the practical experience is under the direct supervision or tutelage of an unlicensed graduate engineer.

b. *Documentation of experience.* An applicant submits references and a work project description. The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience acquired by the applicant.

(1) References. An applicant for the professional engineer license shall submit three references from professional engineers or a combination of professional engineers and graduate engineers on forms provided by the board.

1. The practical experience provided under the direct supervision or professional tutelage of the licensed professional engineers in the course of a mentoring relationship must include technical skills; professional development; the exercise of professional judgment, ethics, and standards in the application of engineering principles and in the review of such matters by others; and the professional obligations of assuming responsible charge of professional engineering works and services.

2. If the applicant has had more than one supervisor, at least two of the references shall be from a supervisor of the applicant. An applicant shall submit supervisor references to verify at least four years of qualifying experience.

3. If an applicant has had professional experience under more than one employer, the applicant shall provide references from individuals with knowledge of the work performed under a minimum of two employers.

4. The board reserves the right to contact references, supervisors, or employers for information about the applicant's professional experience and competence or to request additional references.

5. The board uses references partially as a means of verifying an applicant's record of experience. The applicant must distribute a reference form to individuals who are asked to submit references for the applicant. To each reference form, the applicant shall attach a narrative of the applicant's experience record that is being addressed by the referring individual.

6. The board may require:

(a) The applicant to submit other evidence of suitable tutelage and supervision.

7. The board may conduct interviews with persons providing tutelage or supervision to the applicant.

(2) Work project description. An application for initial licensure includes a work project statement describing a significant project on which the applicant worked during the previous 12 months. The board will review all work project statements and will approve only those that include all of the following components:

1. Description of the applicant's degree of responsibility for the project.

2. The project's owner and location.

3. The name of the supervisor in charge of the project and, if the supervisor is a professional engineer, the license number of the supervisor.

4. The applicant's signature and date of signature.

(3) Criteria the board uses in evaluating the acceptability of the project as qualifying experience for the applicant includes, but is not limited to, the following:

1. The degree to which the project and the experience described have progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;

2. The scope and quality of the professional tutelage experienced by the applicant;

3. The technical decisions required of the applicant in the project; and

4. The professional decisions required of the applicant.

c. Quality. Experience that demonstrates that the applicant has developed technical skill and initiative in the correct application of engineering principles. Such experience should demonstrate the applicant's capacity to review the application of these principles by others and to assume responsibility for engineering work of professional character.

d. Scope. Experience that includes sufficient breadth and scope to ensure that the applicant has attained reasonably well-rounded professional competence in a basic engineering field, rather than highly specialized skill in a narrow and limited field.

e. Progression. The record of experience indicates successive and continued progress from initial, subprofessional work of simpler character to recent, professional work of greater complexity and a higher degree of responsibility, as well as continued interest and effort on the part of the applicant toward further professional development and advancement. In evaluating this progression, the board will consider both subprofessional and professional activity as reported by the applicant. However, only work experience obtained after the applicant's receipt of the qualifying degree will be considered, except as described in paragraph 4.1(4) "f." Subprofessional work includes the time spent as an engineering technician, engineering assistant, inspector, or similar under the direct supervision of a licensed professional engineer. Professional work includes the time during which the applicant was occupied in engineering work of higher grade and responsibility than that defined above as subprofessional work. Time spent in teaching engineering subjects in a college or university at the level of assistant professor or higher may be listed as professional work.

f. Special work experience. Work experience prior to graduation from college may be accepted toward satisfaction of practical experience only as follows: Cooperative work programs and internships administered by engineering colleges and verified on the transcript, with a verifying reference from the internship supervisor, will be considered as half-time credit, with a maximum allowance of 6 months (12 months of cooperative work experience or internship) applicable toward the satisfaction of qualifying experience requirements. An applicant's advanced education, military experience, or both will be reviewed in order to determine if they are applicable toward the statutory requirements for experience.

g. Advanced education. An applicant who has earned a master of science degree that includes research experience, in addition to writing an associated thesis, from an institution in the United States of America with an accredited bachelor of science engineering degree program in the same discipline and who has fulfilled the requirements for a bachelor of science degree may be granted a maximum of one year's experience credit. An applicant who has earned a doctor of philosophy degree from an institution in the United States of America with an accredited bachelor of science engineering degree program in the same discipline may be granted a maximum of two years of experience credit in addition to the one-half year's credit for the master of science degree. An applicant using an advanced degree as experience credit may not also use the advanced degree as the qualifying degree to become licensed.

h. Teaching experience. Teaching of engineering subjects at the level of assistant professor or higher in an accredited engineering program may be considered as experience, provided the applicant's immediate supervisor is a licensed professional engineer in the jurisdiction in which the college or university is located. If the applicant's immediate supervisor is not a licensed professional engineer, a program of mentoring or peer review by a licensed professional engineer acceptable to the board must be demonstrated. Applicants using teaching or research as experience must have a minimum of four years of acceptable experience in research, industry, or consulting. The board will consider the complexity of the project(s) presented, the degree of responsibility of the applicant within the project, and other factors the board deems relevant. Academic experience must demonstrate increasing levels of responsibility for the conduct and management of projects involving engineering research, development, or application. The board reserves the right to contact employers for information about the applicant's professional experience and competence.

i. Joint applications. Applicants requesting licensure both as a professional engineer and a land surveyor must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

j. Corporate exemption. The purpose of the provisions on qualifying experience which authorize the board to consider some experience that was not acquired under the direct supervision and tutelage of a licensed professional engineer is to provide a path toward licensure for those applicants who gain experience in settings where licensure is not required under the corporate exemption set forth in Iowa Code section 542B.26 or under similar statutory provisions in other jurisdictions. Such applicants may lawfully gain professional engineering experience under the supervision or tutelage of graduate engineers who are not licensed. To aid such applicants, the following guidelines are provided:

(1) The board will not consider any of the following experience:

- 1. Gained under circumstances where the applicant could not lawfully have practiced professional engineering.

- 2. Attained in compliance with the law but that was not under the supervision or tutelage of a graduate engineer. The fundamental purpose of qualifying experience is professionally guided training to expand and complement engineering education. Self-guided experience does not qualify.

(3) Unlicensed graduate engineers are not authorized to offer professional engineering services to the public or

to be in responsible charge of such services; nor are they subject to the examinations required for licensure, the professional and ethical standards applicable to licensees, or the regulatory oversight of a licensing authority. Qualifying experience is intended to address both technical competence and the obligations to the public of a licensed professional engineer.

(4) Because the circumstances of individual applicants in corporate exemption settings are diverse, it is not possible to identify the minimum period of time during which the applicant must receive supervision or tutelage from one or more licensed professional engineers to be eligible for licensure. The board will evaluate both the quantity and quality of such experience. In general, an applicant’s exposure to supervision or tutelage by one or more licensed professional engineers should reflect a sustained period of in-depth interaction from which the licensed engineers are in a position to form credible opinions on the applicant’s qualifications to be in responsible charge of engineering services offered to the public as a licensed professional engineer.

(5) The burden is on the applicant to demonstrate to the board’s satisfaction that the combination of unlicensed and licensed supervision and tutelage satisfies the requirements of qualifying experience described in this rule.

k. *Practical experience.* An applicant for a professional engineer license shall have a minimum of one year of practical experience in the United States of America or a territory under its jurisdiction.

4.1(5) Education and experience requirements. The board will require the minimum number of years set forth on the following chart before an applicant will be eligible for licensure.

Experience Requirements	
If the education is:	Req expe
A 4-year bachelor’s degree in a nonaccredited engineering program	
A 4-year bachelor’s degree in an accredited engineering program OR a qualifying master’s degree pursuant to paragraph 4.1(1)“c” OR a qualifying PhD pursuant to paragraph 4.1(1)“d”	
A 4-year bachelor’s degree in an accredited engineering program plus a qualifying master’s degree pursuant to paragraph 4.1(4)“g”	
A 4-year bachelor’s degree in an accredited engineering program plus a qualifying PhD pursuant to paragraph 4.1(4)“g”	
A 4-year bachelor’s degree in an accredited engineering program AND a qualifying master’s degree AND a qualifying PhD pursuant to paragraph 4.1(4)“g”	

4.1(6) Required examinations. All examinations are uniform examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES). The board may negotiate an agreement with an examination service to administer the examinations to applicants approved by the board, in which case applicants shall pay examination fees directly to the service.

a. *Fundamentals of Engineering examination.* The Fundamentals of Engineering examination is a computer-based examination covering general engineering principles and other subjects commonly taught in accredited engineering programs.

b. *Principles and Practice of Engineering examination.* A separate examination is required for each branch in which licensure is granted. An applicant may obtain a Structural branch license by passing either the Principles and Practice of Engineering Civil (Structural) examination or the Principles and Practice of Engineering Structural examinations.

f. *Conduct during the exam.* . Examinees will comply with the testing rules and regulations of the exam administrator.

193C—4.2(542B) Requirements for licensure by comity. A person holding a certificate of licensure to engage in the practice of engineering issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and who has met standards determined by the board to be substantially equivalent to those required of applicants for initial licensure in this state may, upon application, be licensed without further examination. Comity applicants are governed by the same standards as are required of applicants for initial licensure in Iowa.

4.2(1) References. An applicant for licensure by comity shall submit references on forms provided by the board to verify satisfactory engineering experience, as provided in paragraph 4.1(4)a.

4.2(2) Basis for evaluation of applications. Applications for licensure by comity will be evaluated on the following basis:

a. The applicant’s record of education, references, practical experience, and successful completion of approved

examinations will be reviewed to determine if it currently satisfies the substantive requirements of Iowa Code section 542B.14. In reviewing the education, references, and practical experience of comity applicants, the board will use the same criteria used by the board to determine the eligibility of a candidate for the Principles and Practice of Engineering examination; or

b. The applicant’s licensure in a jurisdiction other than Iowa will be reviewed to determine if it was granted only after satisfaction of requirements substantially equivalent to those that are required of applicants for initial licensure in Iowa by Iowa Code section 542B.14. When determining whether the licensing standards satisfied by a comity applicant are substantially equivalent to those required in Iowa, the board considers each of the four licensing prerequisites in Iowa Code section 542B.14(1) individually. The licensing standards are satisfied by the comity applicant, if they are equal or superior to those required in Iowa for education, fundamentals examination, experience, and professional examination. Unless expressly stated in this chapter, the board will not consider an applicant’s superior satisfaction of one licensing prerequisite, such as a higher level of education than is required in Iowa, as resolving an applicant’s lack of compliance with another prerequisite, such as professional examination.

4.2(3) comity application process.

a. An applicant for licensure by comity from a jurisdiction other than Iowa meets or exceeds the education requirements set forth in Iowa Code section 542B.14 and 4.1(1).

b. An applicant has successfully completed the Fundamentals of Engineering examination.

(1) An applicant who graduated from a satisfactory engineering program and who has 10 years or more of work experience satisfactory to the board is not required to take the Fundamentals of Engineering examination.

c. The applicant has successfully completed the Principles and Practice of Engineering examination.

d. An applicant has satisfactory practical experience under paragraph 4.1(3) “a.”

e. While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional engineering in a specific branch of engineering, such as civil, structural, electrical, or mechanical engineering. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews are not equal or superior to NCEES examinations.

4.2(4) Education and experience requirements.

a. For applicants who were originally licensed in a jurisdiction other than Iowa prior to July 1, 1988, the board will employ the following chart to determine if the applicant’s licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant’s original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who were licensed prior to July 1, 1988		
If the applicant’s educational level was:	The applicant has had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant has had the following years of experience the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
No post-high school education	8	4
Postsecondary study in mathematics or physical sciences		
One year	7	4
Two years	6	4
Three years	5	4
Four years	3	4
Four-year BS degree in mathematics or physical sciences plus master’s degree in engineering	0	4
Postsecondary study in engineering technology programs and architecture		

One year	7	4
Two years	5.5	4
Three years	4	4
Four-year degree in a nonaccredited engineering technology program or BA in architecture	2.5	4
Four-year degree in an accredited engineering technology program	2	4
Bachelor of architecture, four years or more	2	4
Four-year degree in engineering technology or architecture plus master's degree in engineering	0	4
Postsecondary study in a nonaccredited engineering program		
One year	7	4
Two years	5	4
Three years	3	4
Four-year BS degree	1	4
Four-year degree in a nonaccredited engineering program plus master's degree in engineering	0	4
Postsecondary study in an accredited engineering program		
Two years	6	4
Three years	3	4
Four-year degree in an accredited engineering program	0	4

b. For applicants who were originally licensed in another jurisdiction and who meet the requirements of Iowa Code section 542B.14(1)“a”(1)(c), the board will employ the following chart to determine if the applicant’s licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant’s original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who meet the requirements of Iowa Code section 542B.14(1)“a”(1)(c)		
If the applicant’s educational level was:	The applicant has had the following additional years of experience prior to taking the Fundamentals of Engineering examination:	The applicant has had the following years of experience the qualifying degree and prior to taking the Principles and Practice of Engineering examination:
College or junior college (mathematics or physical sciences)		
Two years	6	4
Three years	5	4
Four-year BS degree	3	4
Four-year BS degree plus master's degree in engineering	0	4
All engineering technology programs and		

architecture		
Two years	6	4
Three years	5	4
Four-year degree, nonaccredited technology or BA in architecture	3	4
Four-year degree, accredited technology	2	4
Four-year degree or more, bachelor of architecture	2	4
Four-year BS degree, technology or architecture plus master's degree in engineering	0	4
Engineering program, nonaccredited		
Two years	6	4
Three years	3	4
Four-year BS degree	1	4
Four-year BS degree plus master's degree in engineering	0	4
Engineering program, accredited		
Two years	6	4
Three years	3	4
Four-year BS degree	0	4

c. For all other applicants who were originally licensed in a jurisdiction other than Iowa on or after July 1, 1988, the board will employ the chart found at subrule 4.1(5) to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which are required by Iowa Code section 542B.14.

d. For purposes of this subrule, an applicant's master's degree in engineering is from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate is required to fulfill the requirements for the bachelor's degree in the same area of specialization.

[ARC 7753B, IAB 5/6/09, effective 6/10/09; ARC 9287B, IAB 12/15/10, effective 1/19/11; ARC 0779C, IAB 6/12/13, effective 7/17/13; ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—4.3(542B) Requirements for a licensee requesting additional examination. A person holding an active certificate of licensure to engage in the practice of engineering issued by the state of Iowa may, upon written request and payment of the application and examination fees, take additional examinations in other branches of engineering without submitting a formal application to the board as described for initial or comity licensure.

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1352
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	35

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	3
IAC #:	193C	Chapter/ SubChapter / Rule(s):	5	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on compliance to become licensed as a professional land surveyor.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the future licensees.

What are the costs incurred by the public to comply with the rule?

None.

What are the costs to the agency or any other agency to implement/enforce the rule?

Regular staff compensation.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits because staff plays a role in protecting lowans.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Wisconsin and Kansas do not require a specific post secondary degree, compared to an Associate's degree required in Iowa. Wisconsin only requires two years of experience, compared to four in Iowa. Minnesota requires no years of experience, but requires a postgraduate degree.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

5.1 removed unnecessary and restrictive language, amended language to support recent change to 542B.14
5.2 removed unnecessary and restrictive language, amended language to support recent change to 542B.14

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 5
LAND SURVEYING LICENSURE
[Prior to 11/14/01, see 193C—1.4(542B)]

193C—5.1(542B) Requirements for licensure by examination. The specific requirements for initial licensing in Iowa are established in Iowa Code section 542B.14, and it is the board's intention to issue initial licensure only when those requirements are satisfied chronologically as set forth in the statute.

5.1(1) The applicant for initial licensure in Iowa must satisfy the education plus experience requirements stated in Iowa Code section 542B.14(b)(1). Refer to the chart in paragraph 5.1(8) for education education-based experience requirements. If applicant's degree is not in surveying, surveying technology, engineering, or engineering technology, they must have taken a minimum of 9 credit hours in mathematics, of which at least one course must include trigonometry in its coursework, and may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus; and a minimum of 9 credit hours in basic sciences, which must cover one or more of the following topics: general chemistry, advanced chemistry, biology, geology, ecology, meteorology, astronomy, forestry, general physics, advanced physics, or land surveying, for the applicant's degree be a qualifying degree.

a. Internet or on-line degrees will only be considered as qualifying degrees if the institution issuing the degree is accredited by a recognized accreditation board or the degree is evaluated as substantially equivalent to that of an accredited program by the National Council of Examiners for Engineering and Surveying (NCEES). The board may accept evaluations from other recognized foreign credential evaluators satisfactory to the board. Initiating the evaluation and the expense of the evaluation are the responsibilities of the applicant. Each evaluation shall be sent directly to the board from the evaluation service and shall include a copy of the transcript in the form sent to the evaluation service directly from the educational institution.

b. Internet or on-line degrees will only be considered as qualifying degrees if the institution issuing the degree is accredited by a recognized accreditation board.

5.1(2) The applicant must successfully complete the Fundamentals of Land Surveying examination.

a. The applicant may take the Fundamentals of Land Surveying examination anytime after the education and experience requirements described above are completed.

5.1(3) The applicant must successfully complete the Principles and Practice of Land Surveying examination.

a. An applicant may take the Principles and Practice of Land Surveying exam after passing the Fundamentals of Land Surveying exam.

5.1(4) The applicant satisfies the qualifying experience requirements set forth in this chapter.

5.1(5) The applicant must successfully complete the Iowa specific land surveying examination administered by the Board.

5.1(6) Work project description. A complete application includes a statement of approximately 200 words describing a significant project on which the applicant worked closely during the last 12 months. The statement describes the applicant's degree of responsibility for the project and identifies the project's owner and its location. The statement is signed and dated. The criteria the board uses in evaluating the acceptability of the project as qualifying experience for the applicant includes, but is not limited to, the following:

- a. The degree to which the project and the experience described has progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;
- b. The scope and quality of the professional tutelage experienced by the applicant;
- c. The technical decisions required of the applicant in the project; and
- d. The professional decisions required of the applicant.

The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience presented to the applicant.

5.1(7) References.

a. An applicant for the Principles and Practice of Land Surveying examination will submit a minimum of three references, on forms provided by the board, in accordance with the following.:

- 1. The references will be from licensed professional land surveyors.
 - (2) If the applicant has had more than one supervisor, at least two of the references are from a supervisor of the applicant.
 - (3) If an applicant has had professional experience under more than one employer, the applicant provides references from individuals with knowledge of the work performed under a minimum of two employers.
 - (4) The board reserves the right to contact employers for information about the applicant’s professional experience and competence or to request additional references.

b. An applicant for the Fundamentals of Land Surveying examination will provide three references on forms provided by the board.

5.1(8) Education and experience requirements. The board requires the minimum number of years set forth on the following chart before an applicant may take either the Fundamentals of Land Surveying or the Principles and Practice of Land Surveying examination. To determine the total years to become licensed as a Land Surveyor in Iowa, column 2 is added to column 1.

EXPERIENCE REQUIREMENTS		
If the applicant’s educational level was:	The applicant must have the following years of experience prior to taking the Fundamentals of Land Surveying examination and the Principles & Practice examination:	The applicant must have additional years of experience. Board will issue a license if the applicant has the required years of experience.***
A college program with fewer than 9 credit hours of surveying [Reference Sec. 5.1(1) above]		
Two-year degree	4	4
Four-year degree	2	4
Graduate degree	1	4
A college program with 9 or more credit hours of surveying		
Two-year degree	0	4
Four-year degree	0	4
Graduate degree	0	4

This allows applicants to take the Principle and Practice of Land Surveying exams and Iowa state specific exam during this time.

5.1(9) Practical experience requirements. Practical land surveying experience, of which a minimum of one-half shall be field experience, is required prior to licensing. All practical experience must occur after high school graduation and be under the tutelage of a professional land surveyor.

- a. Quality. Experience will demonstrate that the applicant has developed technical skill and initiative in the

correct application of surveying principles. For the purposes of this chapter one year of experience shall consist of 1,872 hours of full- or part-time employment, as attested to by the applicant's references. An applicant may use a maximum of 1,872 hours in any one twelve-month period to satisfy the experience requirements. Full-time students, as defined by the student's school, may not, simultaneously, be considered full-time employees for the purposes of this chapter.

b. Scope. Experience will be of sufficient breadth and scope to ensure that the applicant has attained reasonably well-rounded professional competence in land surveying. For purposes of this section, field experience is considered of sufficient breadth and scope if the applicant conducts research for boundary surveys, conducts boundary monument recovery field work, gathers field information necessary for boundary line recovery, analyzes all collected boundary recovery field data, establishes land surveying monuments in the field, prepares land surveying documents, as defined in this chapter, and writes property descriptions.

c. Progression. The record of experience will indicate successive and continued progress from initial work of simpler character to recent work of greater complexity and higher degree of responsibility.

d. Advanced education and military experience. An applicant's advanced education, military experience, or both will be reviewed to determine if they are applicable toward the statutory requirements for experience.

e. Joint applications. Applicants requesting licensure both as professional engineers and professional land surveyors must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

5.1(10) Examinations. The board prepares and grades the Iowa State Specific Land Surveying examination administered to professional land surveyor candidates. All other examinations are uniform examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES). The board may negotiate an agreement with an examination service to administer the examinations to applicants approved by the board, in which case applicants pay examination fees directly to the service.

(4) An applicant who has failed two consecutive examinations of the state-specific portion of the professional land surveying examination is not allowed to retake the state-specific portion for one year

f. Materials permitted in examination room. For security reasons, applicants shall comply with requirements regarding materials permitted in the examination room as issued by the National Council of Examiners for Engineering and Surveying and provided to candidates prior to the examination.

g. Release of examination results. Results of any examination are only reported as pass or fail except that the candidate who fails an examination may be provided with the candidate's converted score and a diagnostic report indicating areas of weakness, as available.

193C—5.2(542B) Requirements for licensure by comity. A person holding a certificate of licensure to engage in the practice of land surveying issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and of a standard not lower than that specified in the applicable licensure Act may, upon application and successful completion of the Iowa State Specific Land Surveying examination, be licensed without further examination. Comity applicants are governed by the same standards as are required of Iowa applicants.

5.2(1) References. An applicant for licensure by comity shall submit one or more professional land surveyor references on forms provided by the board to verify the number of years of satisfactory experience required with the applicant's level of education. The board reserves the right to contact employers for information about the applicant's professional experience and competence.

5.2(2) Comity application process.

a. The applicant will provide proof of active land surveying licensure in another jurisdiction and be in good standing with that jurisdiction's licensing authority.

b. The applicant for licensure by comity from a jurisdiction other than Iowa will satisfy the education and experience requirements as set forth in Iowa Code section 542B.14 and Iowa Administrative Code 193C Chapter 5.1 for licensure by examination.

c. The applicant needs to successfully complete the Fundamentals of Land Surveying examination.

d. The applicant needs to successfully complete the Principles and Practice of Land Surveying examination.

(1) While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional land surveying. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews, are not equal or superior to NCEES examinations for reasons including the subjective nature of such procedures, lack of verifiable grading standards, and heightened risk of inconsistent treatment.

e. The applicant must successfully complete an Iowa specific land surveying examination administered by the Board.

5.2(5) Substantial equivalency. Pursuant to Iowa Code section 546.10(8), the board may grant a comity application for licensure as a professional land surveyor if the board concludes that the applicant has met or exceeded all requirements for licensure applicable to initial applicants in Iowa, other than the sequence in which experience must be attained.

ARC 0363C ARC 4206C

193C—5.3(542B,272C) Licensure by verification. In addition to the requirements of rule 193—14.4(272C), professional land surveying candidates applying for an Iowa license by verification must pass the Iowa State Specific Land Surveying examination prior to being issued a license. The board will issue a temporary license that is valid for a period of three months to professional land surveying candidates who have not yet passed the Iowa State Specific Land Surveying examination prior to their application. The professional land surveying candidate may request one renewal of the temporary license for an additional period of three months.

This rule is intended to implement Iowa Code section 272C.12.

ARC 5564C

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15 and 542B.20.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1622
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	1
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on compliance for the professional seal and signature.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

6.1 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 6
SEAL AND CERTIFICATE OF RESPONSIBILITY
[Prior to 11/14/01, see 193C—1.30(542B)]

193C—6.1(542B) Seal and certificate of responsibility.

6.1(1) The seal, under Iowa Code section 542B.16, should substantially conform to the samples shown below:



6.1(2) The word “licensed” may be added but is not required on the seal. Neither the word “registrant” nor “registered” may be used on the seal.

6.1(4) The certification block, under Iowa Code section 542B.16, subsection 2, on engineering or land surveying documents submitted to a client or any public agency, hereinafter referred to as the official copy (or official copies), appears on the first page or attached cover sheet. A certification block should be provided for the licensee in responsible charge and for each professional consultant contributing to the submission. In lieu of each contributing professional consultant providing a certification block on the front page or attached cover sheet for application of a seal, a table shall be provided that identifies the contributing professionals and where their respective certification blocks can be found within the document. The seal and original signature only needs to be applied to a final submission. Each official copy (or official copies) of a submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the submission. Each certification block shall display the seal of the licensee and designate the portion of the submission for which that licensee is responsible, so that responsibility for the entire submission is clearly established by the combination of the stated seal responsibilities. Any nonfinal submission of an engineering or land surveying document to a client or public agency shall be clearly labeled “preliminary” or “draft.”

The engineering certification block shall conform to the wording in the sample shown below:

SEAL	I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.
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		<p>(signature) (date)</p> <p>Printed or typed name License number</p> <hr/> <p>My license renewal date is December 31,</p> <hr/> <p>Pages or sheets covered by this seal:</p>
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The land surveying certification block shall conform to the wording in the sample shown below. For maps or acquisition plats prepared from public records or previous measurements by others, the following land surveying certification block may be modified by removing the phrase “and the related survey work was performed.”

		<p>I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.</p> <p>(signature) (date)</p> <p>Printed or typed name License number</p> <hr/> <p>My license renewal date is December 31,</p> <hr/> <p>Pages or sheets covered by this seal:</p>
SEAL		

6.1(5) Except for the original signature and handwritten date in contrasting ink color, the information requested in each certification block must be typed or legibly printed in permanent ink on each official copy. The seal implies responsibility for the entire submission unless the area of responsibility is clearly identified in the information accompanying the seal.

6.1(6) It is the responsibility of the licensee to forward copies of all revisions to the submission, which then become a part of the official copy of the submission. Such revisions shall be identified as applicable on a certification block or blocks with professional seals applied so as to clearly establish professional responsibility for the revisions.

6.1(7) The licensee is responsible for the custody and proper use of the seal. Improper use of the seal is grounds for disciplinary action.

6.1(8) Computer-generated seals may be used on final original documents.

6.1(9) Secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to an engineering or land surveying document, that security procedures are adequate to (1) verify the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is

affixed.

This rule is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.
[ARC 0362C, IAB 10/3/12, effective 11/7/12]

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	65
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	8
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for engineers and land surveyors. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that engineers and land surveyors maintain up-to-date practice standards and, as a result, provide high quality services to Iowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that engineers and land surveyors meet specific continuing education requirements and continually update their knowledge base regarding their profession. This ensures that licensees understand best practice in an evolving field, which allows them provide the best quality of service to Iowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be \$120 - \$450 every two years for a licensee to meet these requirements. Cost is impacted by the licensees preferences. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this

board at approximately 0.31 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states manage continuing education programs with similar hours required per renewal cycle.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Engr-Surv Cont. Ed. Comparison	Nebraska	Minnesota	Illinois	Missouri	South Dakota	Kansas
Regulatory Analysis						
Iowa	Nebraska	Minnesota	Illinois	Missouri	South Dakota	Kansas
30 hours biennially	30 hours biennially	24 hours biennially	30 hours biennially	40 hours annually	30 hours biennially	30 hours biennially
2 hours ethics	1 hours ethics	2 hours ethics	1 hours ethics	2 hours ethcis	zero ethics	2 hours ethics

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

7.1 removed unnecessary and restrictive language.
 7.3 removed unnecessary and restrictive language.
 7.4 removed unnecessary and restrictive language.
 7.5 removed unnecessary and restrictive language.
 7.8 removed unnecessary and restrictive language.
 .

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 7
PROFESSIONAL DEVELOPMENT
[Prior to 11/14/01, see 193C—Chapter 3]

193C—7.1(542B,272C) General statement. Completion of continuing education for professional development is a condition of licensure renewal for each licensee.

193C—7.2(542B,272C) Definitions. As used in these rules, the following definitions apply:

“*College or unit semester or quarter hour*” means the unit of credit given for advanced technical and graduate courses from universities with programs accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc. or other related college course qualified in accordance with this chapter.

“*Continuing education*” means education obtained by a licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

“*Continuing education unit (CEU)*” means the unit of credit customarily granted for continuing education courses. One continuing education unit is given for ten hours of class in an approved continuing education course.

“*Course or activity*” means any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee’s field of practice.

“*Independent study*” means any course or activity in which there is no real-time interaction between the training provider and the licensee, such as courses offered on the Internet.

“*Professional development hour (PDH)*” means a contact hour of instruction or presentation and is the common denominator for other units of credit.

193C—7.3(542B,272C) Professional development hours.

7.3(1) Allowable activities. Licensees may earn professional development hours by participating in a variety of activities. The following is a list of allowable activities and is not all-inclusive:

- a. Successful completion of college courses;
- b. Successful completion of continuing education courses;
- c. Successful completion of correspondence, televised, videotaped, and other short courses or tutorials;
- d. Successful completion of courses on-line via the Internet;
- e. Active participation in seminars, in-house courses, workshops, technical committees of professional engineering organizations, and professional conventions;
- f. Teaching or instructing in the activities set forth above if such teaching or instruction is outside of the licensee’s regular employment duties and if the licensee can document such teaching activity or instruction was newly developed and presented for the first time;
- g. Authoring published papers, articles or books;
- h. Obtaining patents;
- i. Attendance at online video courses;
- j. Participation on an NCEES examination development committee;
- k. Attendance at engineering college graduate research seminars.

All of the allowable activities listed above must adhere to this chapter to be accepted by the board.

7.3(2) PDH conversion. The following chart illustrates the conversion from other units to PDH:

ACTIVITY	PDH
1 College or unit semester hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	45 PDH per semester hour
1 College or unit quarter hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	30 PDH per quarter hour

1 Continuing Education Unit as defined in 193C—7.2(542B,272C)	10 PDH
1 Contact hour attendance in a class, course, seminar, or professional or technical presentation made at a meeting, in-house training session, convention or conference. Credit for qualifying seminars and workshops will be based on 1 PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings will earn PDH units for the actual time of each program, excluding time for breaks and meals.	1 PDH per hour
1 Contact hour teaching a class, course, seminar, or a professional or technical presentation a. Teaching credit is valid for teaching a course or seminar for the first time only. b. Teaching credit does not apply to full-time faculty. c. Teaching credit is limited to 10 PDH per biennial renewal period.	2 PDH per hour
Each published paper, article, or book Credit for published material is earned in the biennium of publication.	10 PDH per publication
Active participation in a professional or technical society. Credit for active participation in professional and technical societies is limited to 2 PDH per renewal period per organization and requires that a licensee serve as an officer or actively participate in a committee of the organization. PDH credits are earned for a minimum of one year's service.	2 PDH per organization per renewal period
Each patent Credit for patents is earned in the biennium the patent is issued.	10 PDH per patent
Participation on an NCEES examination development committee or Iowa state specific land surveying examination development committee, including the writing and grading of examination questions, writing reference materials for examinations, and evaluating past examination question performance. Licensees may claim a maximum of 30 PDH per biennial renewal period for participation in this activity.	2 PDH per hour of committee participation

7.3(3) Determination of credit. The board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit. No preapproval of offerings will be issued. The board may deny any renewal or reinstatement upon a determination of insufficient or unsatisfactory continuing education.

[**ARC 2022C**, IAB 6/10/15, effective 7/15/15; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

193C—7.4(542B,272C) Professional development guidelines. Continuing education activities that satisfy the professional development criteria are those that relate to engineering or land surveying practice or management. It is recognized that an engineer's specialized skills must have as their foundation a fundamental knowledge of chemistry, physics, mathematics, graphics, computations, communication, and humanities and social sciences. However, continuing education in the fundamentals alone will not be sufficient to maintain, improve, or expand engineering skills and knowledge. For that reason, licensees will be limited in their use of fundamental courses in proportion to ABET criteria for accreditation of engineering curricula. Continuing education activities are classified as:

7.4(1) Group 1 activities. Group 1 activities are intended to maintain, improve, or expand skills and knowledge obtained prior to initial licensure. The following chart illustrates the maximum PDH allowable per renewal period for Group 1 activities:

Type of course/activity	al
Mathematics and basic sciences Math beyond Trigonometry Basic sciences: Chemistry, Physics, Life sciences, Earth sciences	
Engineering sciences Mechanics, Thermodynamics, Electrical and electrical circuits, Materials science, *Computer science *Courses in computer science will generally be considered a part of the Engineering Sciences category in the ABET criterion and, therefore, limited to a maximum of 10 PDH per renewal period.	
Humanities and social sciences Philosophy, Religion, History, Literature, Fine arts, Sociology, Psychology, Political science, Anthropology, Economics, Foreign languages, Professional ethics, Social responsibility	
Engineering-related courses Accounting, Industrial management, Finance, Personnel administration, Engineering economy, English, Speech, *Computer applications *The computer is considered a tool available to engineers and land surveyors. Courses related to computer drafting and general computer applications are generally not applicable to either Group 1 or Group 2 activities. Computer courses that relate to engineering or land surveying design applications, such as structural design/analysis software, are considered acceptable.	

7.4(2) Group 2 activities. Group 2 activities are intended to develop new and relevant skills and knowledge. Credit for

participation in activities in the group is unlimited, subject to maximum carryover. Typical areas include postgraduate level engineering science or design, new technology, environmental regulation and courses in management of engineering or land surveying activity (regular work duties do not qualify).

7.4(3) Independent study. To be readily acceptable by the board, independent study as defined in rule 193C—7.2(542B,272C) meets all of the following criteria:

- a. A written evaluation process is completed by the independent study provider; and
- b. A certificate of satisfactory completion is issued by the provider; and
- c. An evaluation assessment is issued to the licensee by the provider; and
- d. Documentation supporting such independent studies is maintained by the licensee and provided to the board as required by subrule 7.8(2).

A maximum of ten professional development hours of independent study activity will be allowed per biennium per licensee.

7.4(4) Exclusions. Types of continuing education activities which will be excluded from allowable continuing education are those in which it is not evident that the activity relates directly to the licensee's practice of professional engineering or land surveying or the management of the business concerns of the licensee's practice, or which do not comply with the board's administrative rules. Examples of activities that do not qualify as continuing education include the following:

- Regular employment;
- Toastmasters club meetings;
- Service club meetings or activities;
- Personal estate planning;
- Banquet speeches unrelated to engineering;
- Professional society business meeting portions of technical seminars;
- Financial planning/investment seminars;
- Foreign travel not related to engineering study abroad;
- Personal self-improvement courses;
- Real estate licensing courses;
- Stress management;
- Trade shows;
- Peer review;
- Accreditation review;
- Independent study or self-study that does not meet the requirements of subrule 7.4(3);
- Basic CAD and fundamental computer application courses;
- Undergraduate engineering seminars.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—7.5(542B,272C) Biennial requirement. The biennial requirement may only be satisfied during the biennium prior to licensure renewal except for the carryover permitted.

7.5(1) Completion of 30 professional development hours, including at least 2 professional development hours in the area of professional ethics, satisfies the continuing education necessary for biennial licensure renewal in engineering or land surveying. Completion of 40 professional development hours, including 20 professional development hours in engineering and 20 professional development hours in land surveying and at least 4 professional development hours in the area of professional ethics, satisfies the continuing education necessary for biennial licensure renewal for individuals actively licensed in both engineering and land surveying. Up to 15 professional development hours may be carried forward only into the next biennium. For individuals actively licensed in both engineering and land surveying, up to 10 professional development hours for each profession may be carried forward only into the next biennium .

7.5(2) Inactive licensees are exempt from the continuing education requirements.

7.5(4) A licensee who is active in one profession and inactive in another is obligated to meet the continuing education requirements for licensure in the profession in which active licensure is maintained.

7.5(5) A new licensee is obligated to satisfy one-half the biennial continuing education requirement at the first renewal following initial licensure. Professional engineers and professional land surveyors licensed by comity are not new licensees and are not eligible for the one-half continuing education requirement.

[ARC 4206C, IAB 1/2/19, effective 2/6/19; ARC 5953C, IAB 10/6/21, effective 11/10/21]

193C—7.6(542B,272C) Exemptions. The continuing education requirements may be reduced in proportion to the following:

1. Periods of time that the licensee serves honorably on active duty in the military services;
2. Periods of time that the licensee is licensed in and a resident of another state or district having continuing education requirements for professional engineering or land surveying and meets all requirements of that state or district for practice therein;
3. Periods of time that the licensee is a government employee working as a professional engineer or professional

land surveyor and assigned to duty outside the United States; or

4. Documented periods of the licensee’s active practice and absence from the United States that are approved by the board.

No exemption will be granted without a written request from the licensee with documentation of the period of absence.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—7.7(542B,272C) Hardships or extenuating circumstances. Upon a written request to the board, the board may, in individual cases involving hardship or extenuating circumstances, grant waivers of the continuing education requirements for a period of time not to exceed one year

193C—7.8(542B,272C) Reports, records, and compliance review. At the time of application for license renewal, each licensee reports, on a form provided by the board, the number of professional development hours achieved during the preceding biennium.

7.8(1) Record keeping. Maintaining records to be used to support professional development hours claimed is the responsibility of the licensee. It is recommended that each licensee keep a log showing the type of activity claimed, sponsoring organization, location, duration, instructor’s or speaker’s name, and PDH credits earned. The licensee is obligated to maintain documentation of reported PDHs for two years after the period for which the form was submitted.

7.8(2) Compliance review. The board may select licensees for review of compliance with continuing education on a random basis or upon receiving information regarding noncompliance and will review compliance with continuing education for reinstatement of lapsed or inactive licenses. Each licensed board member is audited for PDH compliance for a biennium that is within each member’s respective three-year appointment term. For each PDH claimed, licensees chosen for compliance review will furnish:

a. Proof of attendance. Attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance;

b. Verification of the hours claimed; and

c. Information about the course content.

7.8(3) Compliance review sanctions. Any discrepancy between the number of PDHs reported and the number of PDHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any PDH, or the licensee has failed to complete the required PDHs, the licensee has 60 days from board notice to either provide further evidence of having completed the PDHs disallowed or remedy the discrepancy by completing the required number of PDHs (provided that such PDHs are not used again for the next renewal). Extension of time may be granted on an individual basis if requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the licensee willfully disregarded these requirements or falsified documentation of required PDHs, the licensee may be subject to disciplinary action as further identified in 193C—paragraphs 9.3(1) “c” and 9.3(3) “e.”

7.8(4) Out-of-state residents. A person licensed to practice engineering or land surveying or both in Iowa shall be deemed to have complied with the continuing education requirement of this state during the periods that the person is a resident of another state or district which has a continuing education requirement for engineers or land surveyors and the individual meets all requirements of that state or district for practice therein. However, if selected for compliance review, such individuals must provide documentation as specified in 7.8(2).

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

These rules are intended to implement Iowa Code sections 272C.2, 272C.3, 542B.6, and 542B.18.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+4
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	5
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	8	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on professional conduct of the licensee.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

8.1 removed unnecessary and restrictive language.
8.2 removed unnecessary and restrictive language.
8.3 removed unnecessary and restrictive language.
8.4 removed unnecessary and restrictive language.
8.5 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 8
PROFESSIONAL CONDUCT OF LICENSEES

[Prior to 11/14/01, see 193C—Chapter 4]

193C—8.1(542B) General statement. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following code of professional conduct is binding upon every person holding a certificate of licensure as a professional engineer or professional land surveyor in this state. The code of professional conduct is an exercise of the police power vested in the board by the Acts of the legislature.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—8.2(542B) Code of professional conduct. All persons licensed under Iowa Code chapter 542B are charged with having knowledge of the existence of this code of professional conduct and are expected to be familiar with its provisions, to understand them, and to abide by them. Such knowledge includes the understanding that the practices of engineering and land surveying are a privilege, as opposed to a right, and the licensee shall be forthright and candid in statements or written response to the board or its representatives on matters pertaining to professional conduct.

8.2(1) Responsibility to the public. Licensees will conduct their professional practices in a manner that will protect life, health and property and enhance the public welfare. If their professional judgment is overruled under circumstances where safety, health and welfare of the public are endangered, they shall inform their employer or client of the possible consequences, notify such other proper authority as may be appropriate, and withdraw from further services on the project.

Licensees may neither approve nor certify engineering or land surveying documents that may be harmful to the public health and welfare and that are not in conformity with accepted engineering or land surveying standards.

8.2(2) Competency for assignments. Licensees may perform engineering or land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or professional land surveying involved. Licensees shall engage experts or advise that experts and specialists be engaged whenever the client's or employer's interests are best served by such service.

Licensees may accept an assignment on a project requiring education or experience outside their field of competence, but only to the extent that their services are restricted to those phases of the project in which they are qualified.

8.2(3) Truth in reports and testimony. Licensees, when serving as expert or technical witnesses before any court, commission, or other tribunal, may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of

their testimony. Under these circumstances, the licensee must disclose inadequate knowledge.

Licensees shall be objective and truthful in all professional reports, statements or testimony. All relevant and pertinent information shall be included in such reports, statements or testimony. Licensees shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

8.2(4) Conflict of interest. Licensees shall:

a. Not issue statements, criticisms or arguments on engineering or land surveying matters connected with public policy which are influenced or paid for by an interested party, or parties, unless they have prefaced their comments by explicitly identifying themselves, by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest.

b. Avoid all known conflicts of interest with their employers or clients and, when unforeseen conflicts arise, shall promptly inform their employers or clients of any business association, interest, or circumstances that could influence judgment or the quality of services.

c. Not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

d. Act in professional matters for each employer or client as faithful agents or trustees and maintain full confidentiality on all matters in which the welfare of the public is not endangered.

8.2(5) Ethics. Licensees shall conduct their business and professional practices of engineering and land surveying in an ethical manner. In addition to the provisions of this chapter, the board will consider, although not necessarily be bound by, the ethical standards that address public protection issues adopted by a recognized state or national engineering or land surveying organization such as the National Society of Professional Engineers and the National Society of Professional Surveyors.

8.2(6) Unethical or illegal conduct.

a. *Business practices.* Licensees shall not:

(1) Pay or offer to pay, either directly or indirectly, any commission, percentage, brokerage fee, political contribution, gift, or other consideration to secure work, except to a bona fide employee or bona fide, established commercial or marketing agency retained by them or to secure positions through employment agencies.

(2) Engage in any discriminatory practice prohibited by law and shall, in the conduct of their business, employ personnel upon the basis of merit.

(3) Solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(4) Solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of the licensee's organization serves as an elected, appointed, voting or nonvoting member of the same governmental body which is letting the contract. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multimembered body. A licensee would not violate this provision, however, if the principal or officer of the licensee's organization who serves as a member of the governmental body plays no role in the solicitation or acceptance of the contract, and the contract would be legally permissible under applicable Iowa law, including but not limited to Iowa Code sections 68B.3, 279.7A, 331.342, and 362.5.

(5) Associate with, or permit the use of their names or firms in a business venture by, any person or firm that they know, or have reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.

(6) Misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments in brochures or other presentations incident to the solicitation of employment.

b. *Individual professional conduct.* Licensees shall not:

(1) Use association with nonengineers, corporations or partnerships as "cloaks" for unethical acts.

(2) Violate any local, state or federal criminal law in the conduct of professional practice.

(3) Violate licensure laws of any state or territory.

(4) Affix their signatures or seals to any plans, plats or documents dealing with subject matter in which those licensees lack competence, nor to any plan, plat or document not prepared under their direct personal direction and control.

(5) Falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments.

c. *Real property inspection reports.* Licensees shall not:

(1) Represent themselves as licensed professional land surveyors or professional engineers on real property inspection reports (i.e., mortgage surveys).

(2) Place their firm names, logos, or title blocks on real property inspection reports (i.e., mortgage surveys).

[ARC 0362C, IAB 10/3/12, effective 11/7/12; ARC 0470C, IAB 11/28/12, effective 1/2/13; ARC 1084C, IAB 10/2/13, effective 11/6/13; ARC 1577C, IAB 8/20/14, effective 9/24/14]

193C—8.3(542B) Reporting of acts or omissions. Licensees shall report acts or omissions by a licensee that constitute

negligence or carelessness. For the purposes of these rules, “negligence or carelessness” means demonstrating unreasonable lack of skill in the performance of engineering or land surveying services by failure of a licensee to maintain a reasonable standard of care in the licensee’s practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board determines if the engineer or land surveyor has applied learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence include any minimum standards adopted by this board and any standards adopted by recognized national or state engineering or land surveying organizations.

193C—8.4(542B) Standards of integrity. Licensees shall:

1. Answer all questions of a duly constituted investigative body of the state of Iowa concerning alleged violations by another person or firm.
2. Admit and accept their own errors and not distort or alter the facts to justify their own decisions when proven wrong.
3. Present information to the engineering and land surveying examining board in writing and cooperate with the board in furnishing further information or assistance required by the board, if a licensee knows or has reason to believe that another person or firm may be in violation of Iowa law or rules regarding ethics or conduct of professional engineering or professional land surveying practice.
4. Licensees cannot assist in the application of an individual they know is unqualified for licensure by reason of education, experience or character.

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—8.5(542B) Engineering and land surveying services offered by business entities.

8.5(1) Purpose of rule. The purpose of this rule is to protect the public from misleading or deceptive advertising by business entities that hold themselves out to the public as providing professional engineering or professional land surveying services and to guard against the unlicensed practice of professional engineering or professional land surveying by persons who are not properly licensed to perform such services in the state of Iowa. This rule shall not be construed as restricting truthful advertising by business entities that appropriately place professional engineers or professional land surveyors in responsible charge of the professional services offered to and performed for the public.

8.5(2) Definitions. For purposes of this rule, the following definitions apply:

“*Business entity*” includes corporations, partnerships, limited liability companies, persons using fictitious or assumed names, or any other form of entity which may conduct business.

“*In responsible charge*” means the same as Iowa Code section 542B.2, subsection 6. Indications of being in responsible charge include:

1. Obtaining or setting the project or service parameters or criteria.
2. Dictating the manner and methods by which professional services are performed.
3. Establishing procedures for quality control and authority over professional services in a manner that ensures that the professional licensee is in control of the work and of all individuals performing the work under the licensee’s supervision.
4. Spending sufficient time directly performing the work or directly supervising the work to ensure that the licensee is familiar with all significant details of the work.
5. Maintaining familiarity with the capabilities and methods of the persons performing professional services, and providing adequate training for all persons working under the licensee’s direct supervision.
6. Sustaining readily accessible contact with all persons performing professional services by direct physical proximity, or as appropriate in the licensee’s professional judgment, by frequent communication, in clear and complete verbal and visual form, of information about the work being performed.
7. Specifically pertaining to land surveying, reviewing all field evidence and making all final decisions concerning the placement of survey monuments and surveyed lines.

“*Professional services*” includes professional engineering and professional land surveying services, as defined in Iowa Code sections 542B.2(5) and (8) and 542B.27, as applicable to the fact situation at issue.

8.5(3) General rule. Business entities offering professional services to the public must be owned, managed, or appropriately staffed by one or more professional engineers or professional land surveyors, as applicable, who are in responsible charge of all professional services offered and performed.

8.5(4) Appropriate staffing. The nature and extent of appropriate staffing by licensed professionals is necessarily a fact-based determination dependent on such factors as the nature and volume of professional services offered and performed, the risk of unlicensed practice, the impact of the professional services on the life, health and safety of the public and the public’s property, and the representations made to the public. While the legal nature of the business entity’s relationship (e.g., owner, manager, employee) with a licensed professional engineer or professional land surveyor is not necessarily determinative,

licensed professionals must be in responsible charge of all professional services offered and performed.

8.5(5) Professional engineering or professional land surveying firms. Business entities holding themselves out to the public as professional engineering or professional land surveying firms cannot satisfy the requirements of this rule solely by retaining, through employment or contract, a licensed professional on an as-needed, occasional or consulting basis. Such an arrangement fosters unlicensed practice by the unlicensed owners or managers who place themselves in charge of determining when a licensed professional is needed. When a business entity conveys to the public that it is organized as a firm of licensed professionals, the public has a right to expect that the firm retains the full-time services of one or more licensed professionals. “Full-time” in this context is not measured by hours, but by a licensee’s sustained, meaningful, and effective, direct supervision of all professional services performed, whether the firm performs services, for example, 20 hours per month or 80 hours per week.

8.5(6) Restricted services. Business entities that do not generally hold themselves out to the public as professional engineering or professional land surveying firms, but that do offer some type of professional engineering or professional land surveying service, shall be appropriately staffed by licensed professionals in a manner that (a) corresponds with the representations made to the public, (b) places licensed professionals in responsible charge of all professional services performed, and (c) guards against the unlicensed practice of professional engineering or professional land surveying.

8.5(7) Permitted practices.

a. Nothing in this rule is intended to prevent an individual or business entity from truthfully offering services as a project manager, administrator, or coordinator of a multidisciplinary project.

b. Nothing in this rule prevents a joint venture arrangement between an engineering or land surveying firm and a business entity that is not owned, managed, or staffed by professional engineers or professional land surveyors, in which the venturing entities jointly and truthfully offer professional engineering or professional land surveying services on a project-by-project basis. Licensed professional engineers and professional land surveyors who participate in such arrangements shall ensure that the public is accurately informed as to the nature of all professional services to be performed and by whom the services will be performed.

8.5(8) Remedies against licensees. Licensed professional engineers or professional land surveyors who aid and abet the unlicensed offering or practice of professional engineering or professional land surveying, or who otherwise knowingly participate in a business entity that does not comply with this rule, are engaging in unethical practices that are harmful or detrimental to the public and are subject to disciplinary action by the board.

8.5(9) Remedies against business entities and unlicensed individuals. The board may by order impose civil penalties against any business entity or unlicensed individual that offers or performs professional services in violation of Iowa Code chapter 542B.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

These rules are intended to implement Iowa Code sections 542B.6, 542B.21 and 542B.26 and chapter 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	159
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	36

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	8
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	9	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to Iowans because it publically defines the parameters around complaints, investigations and discipline actions. This is important to both the public and to the licensee because it creates a shared understanding. When professional standards are not met it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no known costs to the public.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000 per public offense.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.19 of an FTE. This additionally includes questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that Iowans receive professional services from competent practitioners.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

9.1 removed unnecessary and restrictive language.
9.2 removed unnecessary and restrictive language.
9.6 removed unnecessary and restrictive language.
9.7 removed unnecessary and restrictive language.
9.8 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 9
COMPLAINTS, INVESTIGATIONS AND DISCIPLINARY ACTION
[Prior to 11/14/01, see 193C—Chapter 4]

193C—9.1(542B) Complaints and investigations.

9.1(1) Complaints. The board, upon receipt of a complaint or upon its own motion pursuant to other evidence received by the board, reviews and investigates alleged acts or omissions which reasonably constitute cause under applicable law or administrative rule for licensee discipline. Complaints may be submitted to the board office via the board's website by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, licensees, or other individuals or entities with knowledge of possible violations of laws or rules by licensees.

9.1(2) Form and content. A written complaint may be submitted on forms available from the board office and on the board's website. The written complaint shall include the following information:

- a. The full name, address, and telephone number of complainant.
- b. The full name, address, and telephone number of the individual against whom the complaint is filed.
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. Citation of the statutes and administrative rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, that have been taken by the complainant to resolve the dispute with the respondent prior to the filing of the complaint.

9.1(3) Initial complaint screening. All written complaints received by the board are initially screened by the board’s administrator to determine whether the allegations of the complaint fall within the board’s investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board’s jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous will be referred by the board administrator to the board for closure at the next scheduled board meeting. All other complaints are referred by the board administrator to the board’s disciplinary committee for committee review.

9.1(4) Investigation of allegations. In order to determine if probable cause exists for a hearing on the complaint, the board may cause an investigation to be made into the allegations of the complaint. It may refer the complaint to a peer review committee or investigator for investigation, review and report to the board.

9.1(5) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. It is not necessary for the licensee to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board member or staff, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board’s investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.

9.1(6) Immunity. Complainants are immune from civil liability under Iowa Code section 272C.8.

9.1(7) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which the board may initiate based in whole or in part on information provided by the complainant.

9.1(8) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—9.2(542B) Ruling on the initial inquiry.

9.2(1) Dismissal. If a determination is made by the board that a complaint is without grounds or merit, the complaint will be dismissed. A letter of explanation concerning the decision of the board will be sent to the respondent and the complainant.

9.2(2) Requirement of further inquiry. If determination is made by the board to order further inquiry, the complaint and initial recommendations will be provided to the investigator(s) along with a statement specifying the information deemed necessary.

9.2(3) Acceptance of the case. If a determination is made by the board to initiate disciplinary action the board may enter into an informal settlement or recommend formal disciplinary proceedings. The board’s rules regarding informal settlement are found at 193—7.4(17A,272C).

This rule is intended to implement Iowa Code sections 542B.21, 542B.22 and 272C.6.

193C—9.3(17A,272C,542B,546) Grounds for discipline. The board has authority pursuant to Iowa Code chapters 542B, 17A and 272C to impose discipline for violations of those chapters and the rules promulgated thereunder and may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the grounds identified in Iowa Code section 542B.21.

9.3(1) Fraud or deceit in procuring or attempting to procure an initial, comity, renewal, or reinstated license includes

any intentional perversion of or reckless disregard for the truth when an application, or information in support of another's application, is submitted to the board, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.
- b. Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, or continuing education certificate.
- c. Reporting information, such as satisfaction of continuing education, in a false manner, through overt deceit, or with reckless disregard for the truth or accuracy of the information asserted.
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

9.3(2) Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the practice of engineering or land surveying.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimum standards of acceptable and prevailing practice of engineering or land surveying in this state, including the land surveying standards set forth in Iowa Code chapters 354 and 355 and 193C—Chapters 11 and 12.
- e. Engaging in engineering or land surveying practices which are outside the technical competence of the licensee without taking reasonable steps to associate with a competent licensee or other steps to ensure competent practice.
- f. Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including acts or omissions described in 193C—8.3(542B).

9.3(3) Deceptive practices include, but are not limited to, the following:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of engineering or land surveying.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business or client records.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education or as a condition of probation, or in a reference submitted for an examination or a license applicant or in any reports identified in this rule or 193C—8.3(542B).
- f. Knowingly presenting as one's own the license, signature, or seal of another or of a fictitious licensee, or otherwise falsely impersonating a person holding an engineering or land surveying license.
- g. Representing oneself as a professional engineer or professional land surveyor after the license has been suspended, revoked, surrendered, or placed on inactive status or has lapsed.
- h. Fraud in representations as to skill or ability.
- i. Any violation of Iowa Code section 542B.16 or associated rules in 193C—Chapter 6 involving a licensee's seal or certificate.

9.3(4) Behaviors and conduct which are unethical or harmful or detrimental to the public include, but are not limited to, the following actions:

- a. A violation of the code of professional conduct in 193C—Chapter 8.
- b. Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of engineering or land surveying or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior could occur within such practice and, if so, would place the public at risk.
- c. Aiding or abetting a violation of a provision of Iowa Code section 542B.27(1).

9.3(5) Lack of proper qualifications, as provided in Iowa Code section 272C.3(2) "b." includes, but is not limited to:

- a. Continuing to practice as an engineer or land surveyor without satisfying the continuing education required for license renewal.
- b. Violation of Iowa Code 542B.21 (4), which adversely affects the licensee's ability to practice in a safe and competent manner.

9.3(6) Professional misconduct which includes, but is not limited to, revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. "Disciplinary action" includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate

court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated. A licensee shall notify the board of such disciplinary action within 30 days of the disciplinary action.

9.3(7) Willful or repeated violations include the willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542B or any administrative rule adopted by the board in the administration or enforcement of such chapters.

9.3(8) Conviction of felony includes the conviction of a felony under the laws of the United States, of any state or possession of the United States, or of any other country. The board will vacate any discipline based solely on a conviction, if that conviction is overturned or reversed by a court of last resort.

[**ARC 2022C**, IAB 6/10/15, effective 7/15/15; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

193C—9.4(542B) Disciplinary findings and sanctions. The board’s decision may include one or more of the following findings or sanctions:

1. Exoneration of respondent.
2. Revocation of license.
3. Suspension of license until further order of the board or for a specified period.
4. Nonrenewal of license.
5. Prohibition, until further order of the board or for a specific period, of engaging in specified procedures, methods or acts.

6. Probation.
7. Requirement of additional education or training.
8. Requirement of reexamination.
9. Issuance of a reprimand.
10. Imposition of civil penalties.
11. Issuance of citation and warning.
12. Desk review.
13. Other sanctions allowed by law as may be appropriate.

193C—9.5(272C) Civil penalties. In addition to other disciplinary options, the board may assess civil penalties of up to \$1000 per violation against licensees who violate any provision of rule 193C—9.3(17A,272C,542B,546). Factors the board may consider when determining whether and in what amount to assess civil penalties include:

1. Whether other forms of discipline are being imposed for the same violation.
2. Whether the amount imposed will be a substantial economic deterrent to the violation.
3. The circumstances leading to the violation.
4. The severity of the violation and the risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time elapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issue involved.
11. Whether the violation was willful and intentional.
12. Whether the licensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether the licensee practiced professional engineering or professional land surveying with a lapsed, inactive, suspended or revoked license.

This rule is intended to implement Iowa Code section 542B.22.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12]

193C—9.6(542B) Publication of decisions. In addition to publication requirements found at 193—subrule 7.30(3), the following notifications shall be issued:

1. Following suspension of a professional land surveyor’s license, notification must be issued to the county recorders and county auditors of the county of residence and immediately adjacent counties in Iowa.
2. Following revocation of a professional land surveyor’s license, notification must be mailed to all county auditors in Iowa and the county recorders in the county of residence and immediately adjacent counties in Iowa.
3. Following the suspension or revocation of the license of a professional engineer or professional land surveyor, notification is issued to other boards of examiners for engineers and land surveyors under the jurisdiction of the government

of the United States. This notification may be made through the National Council of Examiners for Engineering and Surveying or other national organizations recognized by the board. In addition, if the licensee is known to be registered in another nation in North America, the appropriate board(s) are notified of the action.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12; **ARC 4206C**, IAB 1/2/19, effective 2/6/19]

193C—9.7(542B) Disputes between licensees and clients. Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or professional land surveyors and their clients may be referred to counsel or peer review committee. The counsel or peer review committee will investigate the report for violation of the statutes or rules governing the practice or conduct of the licensee. The counsel or peer review committee will advise the board of any probable violations, any further action required, or recommend dismissal from further consideration.

[**ARC 0362C**, IAB 10/3/12, effective 11/7/12]

193C—9.8(272C,542) Confidentiality of complaint and investigative information.

9.8(1) General provisions. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information shall not be released to any person except as provided in that section.

9.8(2) Disclosure to the subject of the investigation.

a. Legal authority. Pursuant to Iowa Code Supplement section 546.10(9) [2007 Iowa Acts, Senate File 360, section 7], the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

b. General rule. As a matter of general policy, the board will not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

c. Exceptions to general rule. The board may exercise its discretion to release information to a licensee that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee and prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review or investigative report or expert opinions, as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including those initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

(3) The board may release information from a peer review or consultant's report when soliciting the licensee's position will aid in making the probable cause determination and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.

These rules are intended to implement Iowa Code chapter 17A and sections 542B.2, 542B.22, and 272C.6.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	87
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	4
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	10	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on peer reviewers. Due to the complexity of accounting, peer review programs periodically review accountant’s work to assure the highest quality of service the public as part of an ongoing mission to protect the public.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

10.1 removed unnecessary and restrictive language.
10.2 removed unnecessary and restrictive language.
10.3 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 10
PEER REVIEW

[Prior to 11/14/01, see 193C—4.5(542B)]

193C—10.1(542B,272C) Peer review. The board may appoint a peer reviewer, or multiple peer reviewers, for the investigation of a complaint about the acts or omissions of one or more licensees.

10.1(1) Peer review. Peer reviewers are generally licensed engineers or licensed land surveyors or both, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint.

An individual is ineligible as a peer reviewer in accordance with the standard for disqualification found at 193—subrule 7.14(1). If a peer reviewer is unable to serve after an investigation has begun, the peer reviewer will notify the board office.

10.1(2) Authority. The peer reviewer's investigation may include activities such as interviewing the complainant, the respondent, individuals with knowledge of the alleged violation, and individuals with knowledge of the respondent's practice in the community; gathering documents; conducting site visits; and performing independent analyses as deemed necessary. Although the board does not become involved in a complaint investigation, the board may give specific instructions to the peer reviewer regarding the scope of the investigation. In the course of the investigation, the peer reviewer will refrain from advising the complainant or respondent on actions that the board might take.

10.1(3) Term of service. The peer reviewer serves at the pleasure of the board. The board may dismiss any peer reviewer or add new peer reviewers at any time.

10.1(4) Compensation. The terms of payment as authorized by the peer review agreement may vary based on the nature and complexity of each assignment. The peer reviewer is additionally entitled to reimbursement of expenses directly related to the peer review process, deposition or hearing preparation, or deposition or hearing testimony, such as mileage, meals, or out-of-pocket charges for securing copies of documents. Expenses will be reimbursed as allowed under the manuals and guidelines published by the Iowa department of administrative services, state accounting enterprise. The peer reviewer cannot hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.
[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—10.2(542B,272C) Reports. Each peer reviewer submits a written report to the board within 90 days of the peer review assignment, unless an extension is granted by the board.

10.2(1) Components of the report. The report includes:

a. A statement of the charge to the peer reviewer;

b. A description of the actions taken by the peer reviewer in the peer reviewer's investigation, including but not

limited to document review, interviews and site visits;

c. A summary of the peer reviewer’s findings, including (1) the peer reviewer’s opinion as to whether a violation has occurred, (2) citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and (3) the peer reviewer’s opinion of the seriousness of the violation; and

d. A recommendation.

In the case of a land surveyor peer reviewer report, the report must be plat-specific as to the violations.

10.2(2) Recommended action. The peer reviewer report recommends one of the following:

a. Dismissal of the complaint,

b. Further investigation, or

c. Disciplinary proceedings.

If the peer reviewer recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board, including citation of the specific Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

10.2(3) Disciplinary recommendations. When recommending disciplinary proceedings, a peer reviewer will not suggest a particular form of discipline, but may provide guidance on the severity of the violations that prompted the recommendation and may identify professional areas in which the licensee needs additional education, experience or monitoring in order to safely practice.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—10.3(542B,272C) Confidentiality. The peer reviewer will not discuss or reveal the peer reviewer’s findings and conclusions with any party other than the board (through the peer reviewer’s report to the board) or board staff.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—10.4(542B,272C) Testimony. Peer reviewers may be required to testify in the event of formal disciplinary proceedings.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

These rules are intended to implement Iowa Code section 272C.3.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	42
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	7
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	11	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on minimum standards for property surveys.

Is the benefit being achieved? Please provide evidence.

The benefit is achieved, as each of the rules functions to inform the licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase

efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

11.1 removed unnecessary and restrictive language.
11.2 removed unnecessary and restrictive language.
11.3 removed unnecessary and restrictive language.
11.4 removed unnecessary and restrictive language.
11.5 removed unnecessary and restrictive language.
11.6 removed unnecessary and restrictive language.
11.7 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 11
MINIMUM STANDARDS FOR PROPERTY SURVEYS
[Prior to 11/14/01, see 193C—Chapter 2]

193C—11.1(542B) Scope. Each professional land surveyor will comply with the minimum standards for property surveys described by statute or administrative rule. The minimum standards in this chapter apply to all property surveys performed in this state except those done for acquisition plats as described in Iowa Code chapter 354.
[ARC 0362C, IAB 10/3/12, effective 11/7/12]

193C—11.2(542B) Definitions. For the purposes of these rules, the following definitions apply:

“*Plat*” means both a plat of survey and a subdivision plat as those terms are defined in Iowa Code section 355.1.

“*Property survey*” means any land survey performed for the purpose of describing, monumenting, retracing and establishing boundary lines, dividing, subdividing, or platting one or more parcels of land.

“*Retrace*” means following along a previously established line to logical termini.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—11.3(542B) Boundary location. Every property survey shall be made in accordance with the legal description (record title) boundaries as nearly as is practicable. The surveyor will acquire data necessary to retrace record title boundaries, centerlines, and other boundary line locations. The surveyor analyzes the data and determines the position of the boundaries of the parcel being surveyed. The surveyor makes a field survey, locating and connecting monuments necessary for location of the parcel, and coordinates the facts of such survey with the analysis. The surveyor sets monuments marking the corners of such parcel unless monuments already exist at such corners.

193C—11.4(542B) Descriptions. Descriptions defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of lines or boundaries. The description must contain dimensions sufficient to enable the description to be platted and retraced and describe the land surveyed either by government lot or by quarter-quarter section or by quarter section and identify the section, township, range and county; and by metes and bounds commencing with a corner monumented and established in the U.S. Public Land Survey System; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof which has been previously tied to a corner monumented and established by the U.S. Public Land Survey System. If the parcel is described by metes and bounds, it may be referenced to known lot or block corners in recorded subdivision or additions.

[ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—11.5(542B) Plats. A plat shall be drawn for every property survey performed showing information developed by the survey and including the following elements:

11.5(1) The plat is drawn to a convenient scale which is clearly stated and graphically illustrated by a bar scale on every plat sheet.

11.5(2) The plat shows the length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearing, lengths or locations which vary from those recorded in deeds, abutting plats or other instruments, the following note is placed along such lines: “recorded as (show recorded bearing, length or location).”

11.5(3) The plat shows and identifies all monuments necessary for the location of the parcel and indicates whether such monuments were found or placed and includes an accurate description of each monument consisting of size, shape, material type, capped with license number, and color as applicable.

11.5(4) The plat is captioned to identify the person for whom the survey was made and the date of the survey and describes the parcel as provided in rule 193C—11.4(542B) above.

11.5(5) The plat shows that record title boundaries, centerlines, and other boundary lines were retraced to monuments found or placed by the surveyor.

11.5(6) The plat shows that the survey is tied to a physically monumented land line which is identified by two U.S. Public Land Survey System corners or by two physically monumented corners of a recorded subdivision. The plat shows a distance relationship measured by the surveyor between the two corners on the physically monumented land line. The

physically monumented land line shall be germane to the survey of the lot, parcel, or tract.

11.5(7) The plat bears the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor's direct personal supervision, the date of signature, and the surveyor's Iowa license number and legible seal as provided in rule 193C—6.1(542B).

11.5(8) The surveyor shall record every plat and description, excluding subdivision plats, with the county recorder no later than 30 days after signature on the plat by the surveyor.

[ARC 0362C, IAB 10/3/12, effective 11/7/12; ARC 4206C, IAB 1/2/19, effective 2/6/19]

193C—11.6(542B) Measurements.

11.6(1) Measurements may only be made with instruments and methods capable of attaining the required accuracy for the particular problem involved.

11.6(2) Measurements as placed on the plat shall be in conformance with the capabilities of the instruments used.

11.6(3) The unadjusted closure for all closed traverse surveys shall be not greater than 1 in 5,000 and, for subdivision boundaries, 1 in 10,000.

11.6(4) In a closed traverse, the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds times the square root of the number of angles.

11.6(5) The unadjusted error of field measurements shall not be greater than 1 in 5,000.

11.6(6) The relative positional tolerance at the 95 percent confidence level shall be as follows:

a. For subdivision boundaries: $\pm(0.13 \text{ feet} + 1:10,000)$

b. For all other land surveying: $\pm(0.26 \text{ feet} + 1:5,000)$

11.6(7) Bearings or angles on any property survey plat shall be shown to the nearest one minute; distance shall be shown to the nearest one-tenth foot.

193C—11.7(542B) Monuments. monuments shall adhere to Iowa Code 355.6. See rule 193C—11.3(542B).

[ARC 0362C, IAB 10/3/12, effective 11/7/12]

These rules are intended to implement Iowa Code sections 355.3 and 542B.2.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	44
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	2
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	12	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

In accordance with Iowa Code, this chapter publicly establishes minimum standards for U.S. public land survey corner certificates. Section corners are the basis for Land Surveyors in Iowa. The minimum standards assure that all surveyors adhere to the same fundamentals of established and accepted practice. This established practice minimizes the need for redundant work for a previously recorded section corner, thereby potentially savings Iowans the cost of an additional property survey.

Is the benefit being achieved? Please provide evidence.

Yes, each of the rules functions to inform licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

12.1 removed unnecessary and restrictive language.
12.2 removed unnecessary and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 12
MINIMUM STANDARDS FOR U.S. PUBLIC LAND SURVEY
CORNER CERTIFICATES
[Prior to 11/14/01, see 193C—2.8(355)]

193C—12.1(542B) General statement. Each professional land surveyor will comply with the minimum standards for preparing a U.S. Public Land Survey Corner Certificate as described by statute or administrative rule. The minimum standards in this chapter apply to every corner certificate prepared in this state.

[[ARC 0362C](#), IAB 10/3/12, effective 11/7/12]

193C—12.2(355) U.S. Public Land Survey Corner Certificate.

12.2(1) A corner is considered a part of the U.S. Public Land Survey System if it has the status of a corner of a:

- a. Quarter-quarter section or larger aliquot part of a section.
- b. Fractional quarter-quarter section or larger fractional part of a section.
- c. Government lot.

12.2(2) A U.S. Public Land Survey Corner Certificate shall be prepared by the surveyor as part of any land surveying which includes the use of a U.S. Public Land Survey System corner if one or more of the following conditions exist:

- a. There is no certificate for the corner monument on file with the recorder of the county in which the corner is located.
- b. The surveyor in responsible charge of the land surveying accepts a corner position which differs from that shown in the public records of the county in which the corner is located.
- c. The corner monument is replaced or modified in any way.
- d. The reference ties in an existing public record are incorrect or missing.

12.2(3) A U.S. Public Land Survey Corner Certificate shall comply with the following requirements:

- a. The identity of the corner monument, with reference to the U.S. Public Land Survey System, shall be clearly indicated.
- b. The certificate contains a narrative explaining:
 - (1) The reason for preparing the certificate.
 - (2) The evidence and detailed procedure used in establishing or confirming the corner position whether found or placed.

(3) The monumentation found or placed perpetuating the corner position with an accurate description of each monument including but not limited to size, shape, material type, capped with license number, and color.

(4) The extent of the search for an existing monument when the corner is reset as obliterated or lost.

c. The certificate contains a plan-view drawing depicting:

(1) Relevant monuments including the reference monumentation and an accurate description thereof.

(2) Physical surroundings including highway and street centerlines, fences, structures and other artificial or natural objects as applicable that would facilitate recovery of the corner.

(3) Reference ties in sufficient detail to enable recovery of the corner, including at least three reference ties from the corner to durable physical objects near the corner which are located so that the intersection of any two of the ties will yield a strong corner position recovery. All ties are measured to one-hundredth of a foot.

d. The certificate bears the signature of the professional land surveyor, a statement certifying that the work was performed by the surveyor or under the surveyor’s direct personal supervision, the date of signature, and the surveyor’s Iowa license number and legible seal as provided in rule 193C—6.1(542B).

12.2(4) The surveyor shall record the required U.S. Public Land Survey Corner Certificate and forward a copy to the county engineer of the county in which the corner is located within 30 days after completion of the surveying.
[ARC 0362C, IAB 10/3/12, effective 11/7/12; ARC 4206C, IAB 1/2/19, effective 2/6/19]

These rules are intended to implement Iowa Code sections 355.3, 355.11 and 542B.2.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Iowa Engineering and Land Surveying Examining Board	Date:	7/20/23	Total Rule Count:	1
IAC #:	193C	Chapter/ SubChapter/ Rule(s):	13	Iowa Code Section Authorizing Rule:	542B.6
Contact Name:	Robert Lampe	Email:	Robert.lampe@dia.iowa.gov	Phone:	515-725-9024

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

In accordance with Iowa Code, this chapter publicly establishes civil penalties for unlicensed practice.

Is the benefit being achieved? Please provide evidence.

Yes, each of the rules informs licensees and the public.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public, as no fees are being imposed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing functions. The proposed rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

13.1 restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 13
CIVIL PENALTIES FOR UNLICENSED PRACTICE

[Prior to 11/14/01, see 193C—1.10(542B)]

193C—13.1(542B) General statement. The board may impose civil penalties by order against a person who is not licensed as an engineer or land surveyor pursuant to Iowa Code chapter 542B based on the unlawful practices specified in Iowa Code section 542B.27. In addition to the procedures set forth in Iowa Code section 542B.27, this rule shall apply.

13.1(1) The notice of the board's intent to impose a civil penalty required by Iowa Code section 542B.27 shall be served upon the non-licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 56.1. Alternatively, the non-licensee may accept service personally or through authorized counsel. The notice shall will includes the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. A reference to the particular sections of the statutes and rules involved.
- c. A short and plain statement of the alleged unlawful practice.
- d. The dollar amount of the proposed civil penalty.
- e. Notice of the non-licensee's right to a hearing and the time frame in which hearing must be requested.
- f. The address to which the written request for hearing must will needs to be made.

13.1(2) Non-licensees must request a hearing within 30 days of the date the notice is mailed if served through restricted certified mail to the last-known address or within 30 days of the date of service if service is accepted or made in accordance with Rule of Civil Procedure 56.1. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service postmark or the date of personal service.

13.1(3) If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

13.1(4) If a request for hearing is timely made, the board shall will issue a notice of hearing and conduct a hearing in the same manner as applicable to a disciplinary case against a licensed engineer or land surveyor.

13.1(5) In addition to the factors set forth in Iowa Code section 542B.27, the board may consider the following when determining the amount of civil penalty to impose, if any:

- a. The time elapsed since the unlawful practice occurred.
- b. Evidence of reform or remedial actions.
- c. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
- d. Whether the violation involved an element of deception.
- e. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.

- f. The clarity of the issue involved.
- g. Whether the violation was willful and intentional.
- h. Whether the nonlicensee acted in bad faith.
- i. The extent to which the nonlicensee cooperated with the board.

13.1(6) A nonlicensee may waive the right to a hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

13.1(7) The notice of intent to impose civil penalty and order imposing civil penalty are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, the National Council of Examiners for Engineering and Surveying, and other entities. Hearings shall be open to the public.

This rule is intended to implement Iowa Code section 542B.27.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+8
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Not at this time.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	12
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	1	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 1 is completely an informational purposes chapter. This benefits the public and licensees to understand what the Commission is all about along with procedures of meetings.

Is the benefit being achieved? Please provide evidence.

Yes, gives the public general information regarding the Commission.

What are the costs incurred by the public to comply with the rule?

I don't believe there is a financial cost to anyone with this chapter.

What are the costs to the agency or any other agency to implement/enforce the rule?

The only cost is to implement these rules is the cost for staff to oversee and enforce.

Do the costs justify the benefits achieved? Please explain.

Yes, staff is the only cost to this chapter and obviously the commission needs staff to oversee all rules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter is not a restrictive chapter. It is completely informational content. Where there was restrictive language, it has been softened to reflect less restrictive verbiage. I have also reduced this chapter down from 12 rules to 6 rules as the other items are covered elsewhere.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, this chapter was able to be reduced quite a bit. It also needed to be updated quite a bit as it was outdated.
193E 1.1
193E 1.2
193E 1.4 (3)

RULES PROPOSED FOR REPEAL (list rule number[s]):

193E Chapter 1.5
193E Chapter 1.7
193E Chapter 1.8
193E Chapter 1.9
193E Chapter 1.10
193E Chapter 1.11

All of the above sections of Chapter 1 are to be covered in the DIAL rules for all boards/commissions.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 1 ADMINISTRATION

[Prior to 6/15/88, see Real Estate Commission[700] Ch 1]
[Prior to 9/4/02, see 193E—Chs 2, 5, 7, 8]

193E—1.1(543B) Mission of the commission. The mission of the Iowa real estate commission is to protect the public through the examination, licensing, and regulation of real estate brokers, salespersons, and firms pursuant to Iowa Code chapter 543B, Real Estate Brokers and Salespersons; to administer Iowa Code chapter 543C, Sales of Subdivided Land Outside of Iowa; and to administer Iowa Code chapter 557A, Time-Shares.

The commission is a policy-making body with authority to promulgate rules for the regulation of the real estate industry consistent with all applicable statutes. Administrative support services are furnished by the professional licensing and regulation division of the department of inspections, appeals, and licensing. The commission or duly authorized representative may inspect subdivided land outside of Iowa pursuant to Iowa Code section 543C.4.

193E—1.2(543B) Correspondence and communications. Correspondence and communications with the commission should be addressed or directed to the commission office.

193E—1.3(543B) Meetings of the commission. Meetings of the commission are held at times scheduled by the commission in the offices of the commission or at a place designated by the commission. Special meetings may be called by the chairperson or executive officer of the commission, who sets the time and place of the meeting.

193E—1.4(543B) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the department of inspections, appeals, and licensing or the professional licensing and regulation division, the commission is the principal custodian of its own agency orders, statements of law or policy issued by the commission, legal documents, and other public documents on file with the commission.

1.4(1) Any person may examine public records promulgated or maintained by the commission at its office during regular business hours.

1.4(2) Records, documents and other information may be gathered, stored, and available in electronic format. Information,

various forms, documents, and the license law and rules may be reviewed or obtained at any time by the public from the commission's website located at plb.iowa.gov/board/real-estate-sales-brokers.

1.4(3) Deadlines. Unless the context dictates otherwise, any deadline for filing a document that falls on a Saturday, Sunday, or official state holiday will be extended to the next working day.

193E—1.5(543B) Investigation and subpoena. Commission rules regarding investigations and investigatory subpoenas may be found in 193E—Chapter 18 and in the uniform rules for the professional licensing and regulation division at 193—Chapter 6.

193E—1.6(543B) Impaired licensee review committees. Commission rules governing impaired licensee review committees may be found in the uniform rules for the professional licensing and regulation division at 193—Chapter 12.

These rules are intended to implement Iowa Code chapters 17A, 252J, 261, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	331
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	1
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	2	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 2 is strictly a definitions chapter. This chapter explains the meaning of terms that licensees use and it makes for a better understanding for the general public. Rules can be hard to follow for the general public but this list is helpful to understand real estate terms that are used throughout all of our chapters.

Is the benefit being achieved? Please provide evidence.

Yes, it explains terms that are used throughout all chapters

What are the costs incurred by the public to comply with the rule?

None, that I am aware of. This is completely informational.

What are the costs to the agency or any other agency to implement/enforce the rule?

It would the cost of staff to implement and enforce.

Do the costs justify the benefits achieved? Please explain.

Yes, Commission staff is needed for all chapters of rules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter is strictly a definitions chapter explaining terms utilized in all chapters. There was minimal restrictive language. Where the content could be updated to less restrictive alternatives, we updated it.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 2

DEFINITIONS

[Prior to 6/15/88, see Real Estate Commission[700] Ch 2]

[Prior to 9/4/02, see 193E—1.1(543B) and 193E—2.2(543B)]

193E—2.1(543B) Definitions.

“*Additional license*” means any officer or partner license(s) issued based upon and dependent or contingent upon the primary or main officer or partner license, but assigned to a different corporation or partnership.

“*Advance fees*” means any fees charged for services to be paid in advance of the rendering of such services including, without limitation, any fees charged for listing, advertising, or offering for sale or lease any real property, but excluding any fees paid solely for advertisement in a newspaper of general circulation.

“*Affiliated licensee*” means a broker associate or salesperson, as defined in Iowa Code sections 543B.5(5) and (19), who is under the supervision of a broker.

“*Applicant*” means a person who has applied for or intends to apply for a real estate salesperson or real estate broker license.

“*Application form*” means the form furnished by the commission to be completed and submitted to apply for an original license as a real estate salesperson, real estate broker, real estate firm or trade name.

“*Branch office license*” means the same as “*duplicate license*” as used in Iowa Code section 543B.31.

“*Broker*” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“*Brokerage agreement*” is defined in Iowa Code section 543B.5(7).

“*Broker associate*” is defined in Iowa Code section 543B.5(5).

“*Buyer*” includes a purchaser, tenant, vendee, lessee, party to an exchange, or grantee of an option. Selected rules in these chapters will at times refer separately to “buyers” and “tenants” to clarify licensees’ duties and obligations.

“*Client*” is defined in Iowa Code section 543B.5(9).

“*Commission*” means the real estate commission.

“*Common source information companies*” means any individual, corporation, limited liability company, business trust, estate, trust, partnership, association, or any other legal entity (except any government or governmental subdivision or agency, or any officer or employee thereof acting in such individual’s official capacity) that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

“*Completed application*” means an original or renewal application timely received with all necessary information, documents, signatures, fees or penalties.

“*Confidential information*” means information made confidential by statute, regulation, or express instructions from the client. Confidential information does not include “material adverse facts” as defined in Iowa Code section 543B.5(14). Confidential information includes, but is not limited to, the following:

1. Information concerning the client that, if disclosed to the other party, could place the client at a disadvantage when bargaining;
2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;

3. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;
4. The motivating factors for the party selling or leasing the property;
5. The motivating factors for the party buying or leasing the property;
6. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;
7. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;
8. The seller's or landlord's real estate needs;
9. The buyer's or tenant's real estate needs;
10. The seller's or landlord's financial information, except that the seller's ability to sell and the landlord's ability to lease are considered a material fact;
11. The buyer's or tenant's financial qualifications, except that the buyer's ability to buy and the tenant's ability to lease are considered a material fact.

Confidential information is not disclosable unless one of the following applies:

1. The client to whom the information pertains provides informed written consent to disclose the information;
2. The disclosure is mandated by statute or regulation, or failure to disclose the information would constitute fraudulent representation;
3. The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the licensee; or
4. The disclosure is necessary to defend the licensee against an accusation of wrongful conduct in an actual or threatened judicial proceeding, an administrative proceeding before the commission, or in a proceeding before a professional committee.

"Consumer" means a person seeking or receiving real estate brokerage services.

"Contract between the buyer and seller" means an offer to purchase, a sales contract, an option, a lease-

purchase option, an offer to lease, or a lease.

“*Conviction*” is defined in Iowa Code section 543B.15(3).

“*Customer*” means a consumer of real estate services in connection with a real estate transaction who is not being represented by the licensee, but for whom the licensee may perform ministerial acts. A customer may be a client of another broker, may have yet to decide whether or not to be represented by any broker, or may have chosen not to be represented by any broker.

“*Designated broker*” means the broker or broker associate designated as the person in charge of and responsible for supervision of a main office or branch office as defined in Iowa Code section 543B.5(11).

“*Dual agent*” means a licensee who, with the written informed consent of all the parties to a contemplated real estate transaction, has entered into a brokerage agreement with and therefore represents the seller and buyer or both the landlord and tenant in the same in-house transaction.

“*Duplicate license*” or “*replacement license*” means a license reissued for the remainder of a license term, at the written request of the broker, to replace a lost or destroyed license.

“*Electronic format*” means a record generated, communicated, received, or stored by electronic means, and is in a format that has the continued capability to be retrieved and legibly printed upon request.

“*Examination*” means a licensure examination necessary before issuance of a license.

“*Examinee*” means a person who has registered or intends to register to take a licensure examination.

“*Filed*” means that documents or application and fees are considered filed with the commission on the date postmarked, not the date metered, or on the date personally delivered to the commission office.

“*Firm*” means a licensed partnership, association, limited liability company, or corporation.

“*Licensee*” is defined in Iowa Code section 543B.5(13).

“*Listing broker*” means the real estate broker who obtains a listing of real estate or of an interest in a residential cooperative housing corporation.

“Ministerial acts” means those acts that a licensee may perform for a consumer that are informative in nature and do not rise to the level of specific assistance on behalf of a consumer. For purposes of these rules, ministerial acts include, but are not limited to, the following:

1. Responding to general telephone inquiries by consumers as to the availability and pricing of brokerage services;
2. Responding to general telephone inquiries from a consumer concerning the price, facts and features, or location of property;
3. Attending an open house and responding to general questions from a consumer about the facts and features of the property;
4. Setting an appointment to view property;
5. Responding to general questions of consumers walking into a licensee’s office concerning brokerage services offered or the facts and features of particular properties;
6. Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
7. Describing the facts and features of a property or the property’s condition in response to a consumer’s inquiry;
8. Completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client;
9. Showing a client through a property being sold by an owner; or
10. Referring a person to another broker or service provider.

“Moral turpitude” means an act of baseness, vileness, or depravity, in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty and good morals. Various factors may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as

such. A crime of moral turpitude as specified in Iowa Code section 543B.15(3) shall include without limitation forcible felonies as delineated in Iowa Code section 702.11.

“Original license” means the license of a salesperson, broker, or firm that covers the first term of licensure in Iowa. A license applied for and reissued after the final deadline for renewal of a license is also an original license.

“Primary license” or *“main license”* means the original license issued based upon examination, including any subsequent renewals or reinstatements of the license. Continuing education is necessary to renew to active status.

“Principal broker” means a broker who is either a real estate proprietor, a partner in a real estate partnership, or an officer in a real estate corporation.

“Renewal application form” means the form furnished by the commission to be completed and submitted to apply for renewal of a license as a real estate salesperson, real estate broker, real estate firm, branch office or trade name.

“Salesperson” means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(19).

“Seller” includes an owner, landlord, vendor, lessor, party to an exchange, or grantor of an option. Selected rules in these chapters will at times refer separately to “sellers” and “landlords” to clarify licensees’ duties and obligations.

“Selling broker” means a real estate broker who finds and obtains a buyer in a transaction.

“Single agent” means a licensee who represents only one party in a real estate transaction. A single agent includes a broker and any affiliated broker associates or salespersons representing a party exclusively or non-exclusively, regardless of whether the single agent be all affiliated broker associates or salespersons, or only the identified broker associates or salespersons, or a group of identified broker associates or salespersons. A

single agent may be one of the following:

1. “Seller’s agent” which means a licensee who represents the seller in a real estate transaction;
2. “Landlord’s agent” which means a licensee who represents the landlord in a leasing transaction;
3. “Buyer’s agent” which means a licensee who represents the buyer in a real estate transaction; and
4. “Tenant’s agent” which means a licensee who represents the tenant in a leasing transaction.

“*Sole-proprietor broker*” means an individual or single license broker who privately owns and manages a real estate company.

“*Specific assistance*” means any communication beyond casual conversation concerning the facts and features of a property which occurs prior to the point of discussing price range or any specific, financial qualifications of the buyer or tenant, or selling or buying motives or objectives of the seller or buyer, or tenant or landlord, or eliciting or accepting information involving a proposed or preliminary offer associated with a specific property, in which the person may unknowingly divulge any confidential personal or financial information, which, if disclosed to the other party, could harm the party’s bargaining position. For the purposes of these rules, “specific assistance” does not include preliminary conversations or “small talk” concerning location and property styles, or responses to general factual questions from a potential buyer or tenant concerning facts and features of properties which have been advertised for sale or lease.

“*Status*” means the condition of a real estate license. A license may be active, inactive, expired, suspended, revoked or canceled. “Inactive license” is defined in Iowa Code section 543B.5(12).

“*Subagent*” means a broker and a broker’s affiliated licensees, engaged by another broker to act as an agent for a client. The subagent has the same obligations and responsibilities to the client as the primary broker representing the client.

“*Third party*” means a person or entity that is not a client, is not a party to the transaction, and has no agency relationship to a real estate brokerage.

“*Timely*” means done or occurring at a reasonable time under the circumstances.

“*Timely received*” means postmarked, not metered, not later than midnight on the last date of the deadline specified by the Iowa Code or commission rules.

“*Transaction*” means the sale, exchange, purchase, or rental of, or the granting or acceptance of, an option to sell, exchange, purchase, or rent an interest in real estate, but excluding the subleasing of an interest in a residential cooperative housing corporation, when the leases are for one year or less.

“*Type*” means the category to which a broker license or firm license is issued. A broker license may be issued as a sole-proprietor broker, broker officer, broker partner, or broker associate. A firm license may be issued as a corporation, partnership or association.

“*Undisclosed dual agent*” means a licensee representing two or more clients in the same transaction whose interests are adverse without the knowledge and informed consent of the clients.

This rule is intended to implement Iowa Code chapters 17A, 272C and 543B.

[ARC 7736B, IAB 5/6/09, effective 6/10/09]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 2/26/08, Notice 12/19/07—published 3/26/08, effective 4/30/08]

[Filed ARC 7736B (Notice ARC 7508B, IAB 1/14/09), IAB 5/6/09, effective 6/10/09]

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	10
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	6
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	Chapter 3	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The benefits of 193E Chapter 3 is an explanation on how to obtain a real estate broker license. This allows the public to understand how a person may obtain their broker license. This chapter has all of the rules of becoming a broker. This is important for the public and licensees to understand. This chapter protects the public by ensuring services received are by a competent, educated broker. A broker is also someone who can oversee multiple licensees and trust account monies. This chapter can help prevent fraud and other negligence that could take place without the proper education and training. A person selling or buying their home needs to be protected from such mishaps. Also, having regulation over what a broker needs to accomplish before receiving their license allows an avenue for a person from the public to be able to submit a complaint to our office if there is wrongdoing.

This chapter is specifically helpful for salespeople wanting to obtain their broker’s license.

Note: I have also attached a chart showing costs and education and state comparisons.

Is the benefit being achieved? Please provide evidence.

Yes, this rule has been simplified for everyone to understand how to obtain a broker’s license. The public needs to understand the differences between a licensed salesperson and licensed broker. It is helpful to understand the education and experience when you are looking to obtain the services of a licensee.

What are the costs incurred by the public to comply with the rule?

No costs for the public to comply. However, if licensees don’t comply it could be a high cost to the public. Cost for someone of the public to become a licensed broker would be the education (approx. \$500+ depends on the school, this is not our charge), tests (95.00), background check (51.00), license (170.00). No new costs are being added or increased. These costs are very similar to other states.

Nebraska=\$225 license fee, \$150 exam, Renewal=\$180 for 2 years. 66 hours of education+exam+BG

Illinois=\$519 for education, \$58 exam, \$125 license fee for 2 years. 75 hours of education + exam

South Dakota=\$225 license fee, \$294 exam, Renewal is \$125 for 2 years. 140 hours of education + exam

Minnesota=\$210 license fee, \$100 exam, \$120 renewal for 2 years. 120 hours of education + exam

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost is commission staff to license a broker, to enforce the rules and make sure everything is being implemented correctly.

Do the costs justify the benefits achieved? Please explain.

Yes, Commission staff is needed for all chapters. However, this chapter is specifically important for staff to follow before licensing someone as a broker.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

After reviewing Chapter 3 we were able to simplify and condense down to a less restrictive rule. We also needed to update areas to reflect that we are now electronic based only for applications.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, I was able to reduce this chapter quite a bit with unnecessary language.

- 3.1
- 3.1 (6) now 3.1 (2)
- 3.2
- 3.2 (1)
- 3.2 (2)
- 3.2 (3)
- 3.3
- 3.3 (1)
- 3.4 (1)
- 3.4 (2)
- 3.4 (3)
- 3.5 (1)
- 3.5 (2)
- 3.5 (3)
- 3.5 (4)
- 3.5 (6)
- 3.6 (1)
- 3.6 (3) now 3.6 (2)

RULES PROPOSED FOR REPEAL (list rule number[s]):

3.1 (1)
3.1 (2)
3.1 (4)
3.1 (5)
3.2 (5)
3.6(2)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 3

BROKER LICENSE

[Prior to 6/15/88, see Real Estate Commission[700] Ch 3]

[Prior to 9/4/02, see 193E—2.10(543B) to 193E—2.12(543B) and 193E—3.3(543B)]

193E—3.1(543B) Broker licensure. An applicant is only eligible for a broker license by satisfying Iowa Code section 543B.15.

3.1(1) An applicant for a real estate broker's license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

3.1(2) An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in another state or jurisdiction, or a combination of both, to satisfy the experience requirement for a broker license under 543B.15(7) only if the former Iowa salesperson or applicant from another state or jurisdiction was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

[ARC 3242C, IAB 8/2/17, effective 9/6/17; ARC 6040C, IAB 11/17/21, effective 12/22/21]

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker are conducted by the commission's authorized representative.

3.2(1) Testing service. The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission ~~will~~ approves the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing agency. Applicants register and pay examination fees directly to the testing service.

3.2(2) Requests for waiver. The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Eligibility to sit for examination. An individual may only sit for the exam after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

- a. Evidence that prelicense education has been completed within the last two years.
- b. The letter from the commission granting a waiver of prelicense education.
- c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).
- d. A written authorization from the commission for individuals planning to seek reinstatement of an expired license.

3.2(4) Failure to pass examination. An examinee who takes an examination and fails is eligible to apply to

retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or granted waiver has expired.

193E—3.3(543B) Application for broker license. An applicant who applies for a broker’s license will submit to the commission a completed application, license fee, proof of required education, and test score reports not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

3.3(1) Application contents. The applicant for licensure attests to the accuracy of the detailed personal, financial, and business information concerning the applicant included on the application. ~~form.~~

3.3(2) License terms. Real estate broker, salesperson, trade name, branch office, and firm licenses are issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term. Branch office licenses and trade name licenses are issued for the remaining portion of the license term of the license to which each is assigned.

3.3(3) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—3.4(543B) Broker continuing education.

3.4(1) To renew a license in active status, each broker or broker associate completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license term.

3.4(2) Brokers and broker associates complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

3.4(3) A license may be renewed in inactive status without the completion of continuing education. . Prior to reactivating a license which has been issued inactive due to the licensee’s failure to submit evidence of continuing education, the licensee submits an application to reactivate to active status with evidence that all deficient continuing education hours have been completed. The maximum continuing education hours will not exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.

193E—3.5(17A,272C,543B) Renewing a broker license. To remain authorized to act as a real estate broker, a broker renews a real estate license before the expiration date of the license. Brokers who fail to renew a real estate license before expiration are not authorized to practice as real estate brokers in Iowa. Termination of a broker’s authority to practice real estate in Iowa automatically terminates the authority of all salespersons employed by or assigned to the broker.

3.5(1) Application forms. Applications for renewal of a broker’s license may be found on the commission’s website. Brokers renew electronically. While the commission generally mails reminders to brokers in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the broker from the requirement to renew prior to the expiration of the license.

3.5(2) Qualifications for renewal. The commission grants an application to renew a broker’s license if:

a. The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.

b. The application is accompanied by the regular renewal fee and, if received by the commission after midnight December 31 but prior to midnight January 30, is accompanied by a penalty of \$25.

c. The application is fully completed with all necessary information, including proper disclosure of completed continuing education and errors and omissions insurance.

d. The application does not include grounds to deny a license, such as the revocation of a license in another jurisdiction or a criminal conviction.

3.5(3) *Incomplete or untimely applications to renew.* Renewal applications received by the commission after midnight January 30 will be treated as applications to reinstate an expired license under rule 193E—3.6(272C,543B).

a. Applications to renew or reinstate a broker's license which are incomplete or which are not accompanied by the proper fee may be returned to the broker for additional information or fee.

b. Alternatively, the commission may retain the application, and notify the applicant that the application cannot be granted without further information or fee.

3.5(4) *Insufficient continuing education.* Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with the proper fee, are renewed in inactive status. In the event of a factual dispute regarding the broker's intent to renew in inactive status or a broker's completion of continuing education, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rule 193—7.39(546,272C).

3.5(5) *Denial of application to renew.* An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

3.5(6) *Renewal of inactive or suspended license.* An inactive or suspended license expires if not timely renewed. The status of a license does not affect the requirement to renew.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—3.6(272C,543B) Reinstatement of an expired broker license. A real estate broker who fails to renew or file a completed renewal application by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration to the date of reinstatement, the broker is not authorized to practice as a real estate broker in Iowa.

3.6(1) Continuing education. A broker either fully satisfied all continuing education or has retaken and passed the broker examination to reinstate an expired broker license. .

3.6(2) Starting over. A broker who fails to reinstate an expired license by December 31 of the third year following expiration is treated as if the former broker had never been licensed in Iowa. Such a former broker starts over in the licensing process and must first qualify and apply for a salesperson license.

3.6(4) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 5/7/04, Notice 2/18/04—published 5/26/04, effective 6/30/04]

[Filed 7/25/05, Notice 6/8/05—published 8/17/05, effective 9/21/05]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	555
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	53

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	6
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	4	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Pauslen	Email	Renee.pauslen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This is chapter explains how to obtain a salesperson license. This chapter is important for the public to understand what a person is obligated to do to obtain their license. This chapter explains education requirements, renewals, etc. It is important for the public to understand these requirements and how hiring a licensee could be beneficial to protect themselves from any type of fraud. Also, by the state regulating this chapter it allows the public to submit a complaint against a licensee. I did do some comparisons with surrounding states and we are very comparable to most states. Nebraska is a little less to get your original license but has only two year cycles. Illinois has more education requirements and more types of licenses. No surrounding state is exactly the same but all within the same range.
NOTE: I added a comparison chart on fees and education.

Is the benefit being achieved? Please provide evidence.

Yes, this is a simplified version explaining to the public how a person obtains a real estate salesperson license.

What are the costs incurred by the public to comply with the rule?

There are no costs incurred by the public. There could be sufficient costs if this chapter is removed or not enforced. The cost to a new licensee would include the license fee (\$125), background check (\$51), education (\$500+) and exams (\$95). Comparable to other states is as follows:
Nebraska-License fee is \$205, Exam is \$150, Renewal is \$140 for 2 years. 66 hours of education + exam
Illinois-License is \$125, Exam is \$58, Education is \$519, 75 hours of education + exam
South Dakota-License is \$225, Exam is \$294, Renewal is \$125 for 2 years. 116 hours of education + exam
Minnesota-License is \$130, Renewal is \$60 and Exam is \$100 for 2 years. 90 hours of education + exam

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost for the agency would be staff to implement the licensing of salesperson and to enforce this rule.

Do the costs justify the benefits achieved? Please explain.

Yes, staff is needed for the commission to enforce all chapters of rules and to ensure proper licensing for individuals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

We have condensed the information down to remove restrictive language along with removing items that are redundant or repetitive with 543B. We also allow the 60 hours to be taken online with 24 hours of CE's being allowed online. We ask for 12 hours to be via a live instructor but now we offer live instruction to be via zoom. This allows people to take courses at home or at their convenience with still giving them the live instruction.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, I was able to reduce duplicative language, unnecessary language and outdated information.

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- 4.1 (4)
- 4.1 (9) now 4.1 (7)
- 4.2
- 4.2 (1)
- 4.2 (2)
- 4.2 (3)
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- 4.3 (1)
- 4.3 (3)
- 4.4 (1)
- 4.4 (3)
- 4.5 (1)

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 193E Chapter 4.1(5)
- 193E Chapter 4.1(6)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 4

SALESPERSON LICENSE

[Prior to 9/4/02, see 193E—2.10(543B), 193E—2.11(543B), 193E—3.2(543B), and 193E—3.3(543B)]

193E—4.1(543B) General criteria for salesperson license. A person who is licensed under and employed by or otherwise associated with a real estate broker or firm is a “salesperson” as defined in Iowa Code section 543B.5(20) and rule 193E—2.1(543B).

4.1(1) An original application for a salesperson license cannot be issued to inactive status.

4.1(2) If the license is transferred, as provided in rule 193E—6.2(543B), the salesperson may work immediately for the new broker.

4.1(3) A salesperson is assigned to a licensed broker or firm and cannot conduct business independently.

4.1(4) Except as provided in Iowa Code section 543B.21, an applicant for a salesperson license must meet all qualifications under Iowa Code section 543B.15.

4.1(5) An applicant for a real estate salesperson license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, jurisdiction, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

4.1(6) An applicant for a real estate salesperson license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

4.1(7) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination consists of 60 live instruction or [online](#) learning hours of real estate principles and practices. To be eligible to take the examination,

the 60 live education or [online](#) learning hours of real estate principles and practices are completed during the 12 months prior to taking the examination. The applicant will also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The prelicense education will expire after 12 months. .

[**ARC 3242C**, IAB 8/2/17, effective 9/6/17; **ARC 6040C**, IAB 11/17/21, effective 12/22/21]

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson are conducted by the commission or its authorized representative.

4.2(1) Testing service. The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission will approve the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing service. Applicants register and pay examination fees directly to the testing service.

4.2(2) Requests for waiver. The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant's prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) Eligibility to sit for examination. An individual may only sit for the exam after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

- a. Evidence that 60 live education or [online](#) learning hours of real estate principles and practices have been completed.
- b. A letter from the commission granting a waiver of prelicense education.

c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).

4.2(4) *Failure to pass examination.* An examinee who takes an examination and fails is eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or waiver granted has expired.

[**ARC 3242C**, IAB 8/2/17, effective 9/6/17; **ARC 6040C**, IAB 11/17/21, effective 12/22/21]

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and test score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

4.3(1) *Application contents.* The application ~~form~~ includes detailed personal, financial, and business information concerning the applicant, and the applicant for licensure attests to its accuracy.

4.3(2) *License terms.* A salesperson license is issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

4.3(3) *Denial of application.* An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

[**ARC 3242C**, IAB 8/2/17, effective 9/6/17]

193E—4.4(543B) Salesperson continuing education requirements.

4.4(1) As a requirement of license renewal in active status, each salesperson completes a minimum of 36 hours of approved programs, courses or activities during the three calendar years of the license term, and continuing education hours cannot be carried over to another license term..

4.4(2) Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

4.4(3) A salesperson license may be renewed to inactive status without completion of continuing education. Prior to reactivating a license which has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—4.5(543B) Renewing a license. To remain authorized to act as a real estate salesperson, a salesperson must renew a real estate license before the expiration date of the license. Salespersons who fail to renew a real estate license before expiration are not authorized to practice as real estate salespersons in Iowa.

4.5(1) *Application forms.* Applications for renewal of a salesperson license may be found on the commission’s website. Salespersons will renew electronically. While the commission generally mails reminders to salespersons in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the salesperson from the requirement to timely renew.

4.5(2) *Qualifications for renewal.* The commission shall grant an application to renew a salesperson license if:

a. The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.

b. The application is accompanied by the regular renewal fee and, if received by the commission after

midnight December 31, but prior to midnight January 30, is accompanied by a penalty of \$25.

c. The application is fully completed with all necessary information, including proper disclosure of required continuing education and errors and omissions insurance.

d. The application fails to reveal grounds to deny a license, such as a criminal conviction or the revocation of a license in another jurisdiction.

4.5(3) *Incomplete or untimely applications to renew.* Renewal applications received by the commission, or postmarked, after midnight January 30 shall be treated as applications to reinstate an expired license under rule 193E—4.6(272C,543B).

a. Applications to renew or reinstate a salesperson license which are incomplete or which are not accompanied by the proper fee may be returned to the salesperson for additional information or fee.

b. Alternatively, the commission may retain the application and notify the applicant that the application cannot be granted without further information or fee.

4.5(4) *Insufficient continuing education.* Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with proper fee, shall be renewed in inactive status. In the event of a factual dispute regarding the salesperson's intent to renew in inactive status or a salesperson's compliance with continuing education requirements, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rules 193—7.39(546,272C) and 193E—18.13(543B).

4.5(5) *Denial of application to renew.* An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

4.5(6) *Renewal of inactive or suspended license.* An inactive or suspended license must be timely renewed

or it shall expire. The status of a license does not affect the requirement to renew.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—4.6(272C,543B) Reinstatement of an expired salesperson license. A real estate salesperson who fails to renew or fails to file a complete renewal application ~~form~~ by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration to the date of reinstatement, the salesperson is not authorized to practice as a real estate salesperson in Iowa.

4.6(1) Continuing education. An application to reinstate an expired salesperson license must report that the salesperson either fully satisfied all required continuing education or has retaken and passed the salesperson examination. A salesperson holding an expired license who wishes to retake the salesperson examination must obtain written authorization from the commission to show at the examination site.

4.6(2) Deposit of reinstatement fees. Reinstatement fees collected under this rule shall be transmitted to the treasurer's office and credited to the education fund established in Iowa Code section 543B.54.

4.6(3) Starting over. A salesperson who fails to reinstate an expired license by December 31 of the third year following expiration shall be treated as if the former salesperson had never been licensed in Iowa. Such a former salesperson must start over in the licensing process and qualify and apply for a salesperson license.

4.6(4) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 7/25/05, Notice 6/8/05—published 8/17/05, effective 9/21/05]

[Filed 5/30/07, Notice 4/25/07—published 6/20/07, effective 7/25/07]

[Filed 10/14/08, Notice 7/30/08—published 11/5/08, effective 12/10/08]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	184
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	49

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	12
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	5	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 5 is an explanation of how to obtain your Iowa Real Estate license if you have a real estate license in another jurisdiction. This is an important chapter for other states. We do have neighboring states such as Illinois, Nebraska and Missouri that do not fall under full reciprocity like Minnesota. There are requirements for a licensee to fulfill before the commission will grant an Iowa license to a them. This chapter explains the exact process. The commission staff utilizes this chapter daily. Commission staff does receive calls from the public wondering how someone that lives in another state also holds a license here. This chapter is a good chapter to refer to. I have pointed people to this chapter for numerous reasons, including the public. It is important for everyone to understand that exams are required to show competence to hold an Iowa real estate license.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to the public along with out of state licensees. This is a good chapter of explanations. It is helpful for both the public and licensees.

What are the costs incurred by the public to comply with the rule?

No potential direct cost to the public unless it is an out of state licensee. They would have the cost of license fees, exams, and background check.

What are the costs to the agency or any other agency to implement/enforce the rule?

The costs to the agency is for the staff. We explain this process very often and direct people to this chapter.

Do the costs justify the benefits achieved? Please explain.

Yes, commission staff is justified for all of our licensees and protecting the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

5.1
5.1 (2)
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All of 5.4 updated language
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All of 5.7 language updated
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5.11
5.12 (2)

RULES PROPOSED FOR REPEAL (list rule number[s]):

193E 5.8
193E 5.12 (1)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 5
LICENSEES OF OTHER JURISDICTIONS AND RECIPROCITY
[Prior to 9/4/02, see 193E—2.3(543B)]

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule

193E—5.3(543B) or 193E—5.12(543B) may qualify for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for the same type of broker or broker associate license in Iowa. The person meets all criteria for an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the criteria, the person may qualify for a salesperson license if they meet, at a minimum, the criteria for an Iowa salesperson license as provided in 193E—Chapter 4.

5.1(3) A person may only perform activities in Iowa as provided by Iowa Code chapter 543B after qualifying for and being issued a real estate license.

[ARC 3242C, IAB 8/2/17, effective 9/6/17; ARC 6040C, IAB 11/17/21, effective 12/22/21]

193E—5.2(543B) Nonresident application. Each applicant under rule 193E—5.3(543B) or under a reciprocal licensing agreement or memorandum applies on forms provided by the commission under Iowa Code section 543B.16. The application includes but is not limited to a certification of license from the state of original licensure containing all information required by Iowa Code section 543B.21 and an affidavit certifying that the applicant has reviewed and is familiar with and will be bound by the Iowa real estate license law and the rules of the commission.

193E—5.3(543B) License by examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all criteria for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) The applicant submits a written request for authorization to sit for the appropriate examination.

5.3(4) The applicant submits certification of the applicant's current qualifying license from the licensing authority that issued the license.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—5.4(543B) Licensure by reciprocity. The commission may, as provided in Iowa Code section 543B.21, enter into specific written reciprocal licensing agreements or memorandums with other individual states or jurisdictions having similar licensing criteria and grant an Iowa license to licensees from those states or jurisdictions on the same basis as Iowa licensees are granted licenses by those states or jurisdictions.

5.4(1) The applicant is not a resident of Iowa.

5.4(2) A license issued pursuant to this rule is based upon a nonresident salesperson or broker license issued by examination.

5.4(3) A license issued pursuant to this rule is assigned to the same broker or firm as the nonresident license upon which it is based.

5.4(4) If an applicant establishes residency in Iowa, that person does not qualify for licensure by reciprocal licensing agreement or memorandum.

5.4(5) An Iowa license issued by reciprocity is based upon the nonresident license issued by examination in that other state or jurisdiction and is issued to the same broker and location as the nonresident license. The nonresident broker and firm, if applicable, must also be licensed in Iowa.

5.4(6) A reciprocity agreement or memorandum of understanding is only a method to apply for licensure and does not grant any exception to mandatory license laws of Iowa or the other state or jurisdiction.

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—5.5(543B) Renewal of a license issued by reciprocity. All renewal criteria for a real estate broker or salesperson license issued by examination apply to a license issued by reciprocity.

Continuing education reciprocity is specifically provided for in the reciprocal license agreement or memorandum, or in a separate reciprocal continuing education agreement or memorandum.

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement criteria for a real estate broker license or salesperson license issued by examination apply to a license issued by reciprocity.

5.6(1) Starting over. A broker or salesperson who fails to file a complete application to reinstate an expired license by midnight December 31 of the third year following expiration is treated as if the former broker or salesperson had never been licensed in Iowa.

5.6(2) A broker or salesperson must qualify for reciprocity in order to reinstate an expired reciprocal broker or salesperson license.

5.6(3) If the broker or salesperson has moved into Iowa and no longer qualifies for reciprocity, the expired license is reinstated in the same manner as a license issued by examination as provided in rule 193E—3.6(272C,543B) for brokers and rule 193E—4.6(272C,543B) for salespersons.

[ARC 3242C, IAB 8/2/17, effective 9/6/17]

193E—5.7(543B) Nonresident real estate offices and licenses required. All nonresident applicants for licensure in Iowa shall qualify for and obtain a license pursuant to Iowa Code section 543B.2(2) and rule 193E—7.1(543B).

5.7(1) If the applicant is a broker associate or salesperson of a nonresident broker, the nonresident employing broker must have an Iowa broker license.

5.7(2) If the applicant is employed by or otherwise associated with a nonresident real estate firm as defined in rule 193E—2.1(543B), that firm must apply and qualify for an Iowa license.

a. No firm as defined in rule 193E—2.1(543B) may be granted an Iowa license unless at least one member or officer of the firm applies for and is granted an Iowa broker license.

b. Every member or officer of the firm and every employee or associated real estate licensee who acts as a real estate broker, broker associate, or salesperson in Iowa must apply for and be granted an Iowa license.

5.7(3) As provided by Iowa Code section 543B.22, a nonresident broker or firm is not obligated to maintain a definite place of business in Iowa if that broker or firm maintains an active place of business within the resident state or jurisdiction.

193E—5.8(543B) Actions against nonresidents. The application for a nonresident license is accompanied by an executed irrevocable written consent to suits and actions at law or in equity as provided in Iowa Code section 543B.23.

193E—5.9(543B) Nonresident continuing education. Nonresident licensees shall fully comply with all continuing education unless a separate education agreement is in place between Iowa and the nonresident state or jurisdiction.

193E—5.10(543B) License discipline reporting. If an Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction is cause for disciplinary action.

[ARC 9619B, IAB 7/27/11, effective 8/31/11; ARC 6040C, IAB 11/17/21, effective 12/22/21]

193E—5.11(543B) Licensure by verification. A person licensed in another state or jurisdiction may qualify for an Iowa salesperson or broker license through verification by making application as provided in rule 193—14.4(272C). In addition to all requirements provided by rule 193—14.4(272C), an applicant for a license through verification shall also submit to the commission proof of passing the Iowa portion of the salesperson or broker real estate examination.

5.11(1) License terms. Once the applicant submits an approved application and appropriate licensing fees, a license will be issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

[ARC 6040C, IAB 11/17/21, effective 12/22/21]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9619B (Notice ARC 9486B, IAB 5/4/11), IAB 7/27/11, effective 8/31/11]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

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****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	61
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	30

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

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Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 12, 2023	Total Rule Count:	3
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 6 is an explanation of how to terminate or transfer a license. This is a simple process, however, it is important for licensees and the public to understand the process. We do have complaints submitted when a licensee is practicing under one firm and licensed to another firm. We also have people practicing on an inactive license before they become active to a new firm. It is important for everyone to understand the processes.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process. This process is completed by licensees on a regular basis so having this rule is helpful for all licensees.

What are the costs incurred by the public to comply with the rule?

No direct costs to the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

Agency costs include staffing salaries to implement and enforce these procedures.

Do the costs justify the benefits achieved? Please explain.

Yes, commission staff is needed to process transfer applications and to implement and enforce the Iowa rules and laws.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language. I have also removed quite of bit of redundant information to make this chapter much simpler. This is not a hard process to understand and the previous rules were overly complicated.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, this chapter needed to be simplified and updated with electronic proceduces. I removed unnecessary language and restrictive language.

6.1

6.1 (1)

6.1 (2)

6.2

6.2 (1)

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RULES PROPOSED FOR REPEAL (list rule number[s]):

193E 6.1 (3)

193E 6.2 (2)

193E 6.2 (5)

193E 6.2 (4)

193E 6.3

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 6

TERMINATION AND TRANSFER

193E—6.1(543B) Terminating employment or association. When a licensee is discharged by the affiliated broker or the licensee terminates the employment or association with the affiliated broker, the licensee immediately ceases all activities that need an active real estate license until such time as a new affiliated broker makes written request for the license and the license is reassigned to the new affiliated broker.

6.1(1) When a broker discharges a salesperson or broker associate, the broker complies with all criteria of Iowa Code section 543B.33.—The releasing broker makes a reasonable effort to ensure that an application to inactivate the licensee is submitted electronically to the commission within 72 hours of the discharge date.

6.1(2) The licensee may terminate the employment or association by providing written notice to the affiliated broker advising the effective date of the termination and requesting that the license. The affiliated broker cannot refuse to comply with the request. The releasing broker makes every reasonable effort to ensure that the commission receives the electronic application within 72 hours of the termination date.

193E—6.2(543B)Transfer of license and necessary transfer application . All requests for transfer of license are made on the necessary electronic application for license transfer available from the commission. The license transfer application is only used for transferring the license from the affiliated broker to a new affiliated broker. This transfer application is only to be used if the transferring licensee has obtained the necessary information from the new affiliating broker. The license transfer application cannot be used for licensees who are terminated or who quit prior to obtaining a new affiliating broker. The transfer application cannot be backdated to a new affiliated broker.

6.2(1) The license transfer process involves three steps, and each step needs to be correctly completed to qualify as a valid transfer. The steps are as follows:

a. The transferring licensee submits the electronic transfer application available from the commission.

b. Both, the new affiliating broker and releasing broker electronically approve the transfer request, within 48 hours of receiving notification from the commission of the transfer request.

c. The electronic transfer application is approved and issued by the commission.

6.2(2) Transfer effective date, The effective date of the transfer is the date of approval and issuance from the commission. -

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 8284B (Notice ARC 8058B, IAB 8/26/09), IAB 11/18/09, effective 12/23/09]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	5
Proposed word count reduction after repeal and/or re-promulgation	441
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	35

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	June 23, 2023	Total Rule Count:	15
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 7 is an explanation of guidelines for offices and management and licenses needed. This chapter also covers some prohibited activities. This is a complex chapter that I have tried to condense down and update to reflect new procedures. However, all of the information provided in this chapter is necessary and the Commission does not want to see it go away. Staff receives call quite often regarding what an unlicensed administrative assistant is able to do without a license. This helps and guide a licensee and the public on what is allowed or what is barred. This also helps to understand other office procedures for branch locations, sharing office space, when to notify the commission of changes to your firm, suspended or revoked licensees, etc.. This chapter is very important in protecting the public along with the public understanding what a non licensee can do to help them. This chapter is very helpful and I do not see a way to condense it down it any further.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to the public and to licensees. Again, it is a complex chapter but all necessary information and rules to have in place.

What are the costs incurred by the public to comply with the rule?

No upfront costs to the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staffing is the cost to implement and enforce these rules.

Do the costs justify the benefits achieved? Please explain.

Yes, Commission staff is needed to implement and enforce all of Iowa Rules and Laws.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

This is a long chapter but I was able to reduce restrictive language and outdated language in each subsection.

All of 7.1-language updated

7.2 (1)

7.2 (4)

All of 7.3-language updated

All of 7.4-language updated

7.5

7.6

7.7

All of 7.8-language updated

7.9

7.10

7.11

7.12

7.13

7.14

7.15

RULES PROPOSED FOR REPEAL (list rule number[s]):

193E 7.2 (6)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 7

OFFICES AND MANAGEMENT

[Prior to 9/4/02, see 193E—Ch 1 and 193E—2.14(543B) to 193E—2.17(543B)]

193E—7.1(543B) Real estate offices and licenses needed.

7.1(1) Every Iowa resident real estate firm or self-employed broker maintains an office as provided in Iowa Code section 543B.31

A nonresident Iowa real estate broker or firm is not obligated to maintain a definite place of business within Iowa as provided in Iowa Code section 543B.22.

7.1(2) Sharing office space. It is acceptable for more than one broker to operate in an office at the same address if each broker maintains all records and trust accounts separate from all the others. Each broker operates under a business name, which clearly identifies the broker as an individual within the group of brokers.

7.1(3) Branch office. A licensed Iowa real estate firm or sole-proprietor broker maintaining a branch office displays a commission-issued branch office license in that location. The branch office license is issued in the name of the firm or sole-proprietor broker and includes the license number and the physical address of the branch office. The branch office license is issued at a reduced fee and has the same expiration date of the primary license.

7.1(4) When a real estate brokerage firm closes, the principal broker or a designated representative follows procedures as provided in 193E—Chapter 8.

7.1(5) A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid is maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is needed only for renewal of the main or primary license.

7.1(6) When a branch office closes, notice in writing, electronically or otherwise, shall be given to the commission.

7.1(7) Each actively licensed broker associate and salesperson is licensed under a broker.

7.1(8) A broker associate or salesperson shall may not be licensed under more than one broker during the same period of time.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—7.2(543B) Notification needed.

7.2(1) Partnerships, associations, and corporations are obligated to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

7.2(2) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

7.2(3) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

7.2(4) Failure of a broker to return a license electronically to the commission office to ensure that it is received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

7.2(5) Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

{**ARC 3500C**, IAB 12/6/17, effective 1/10/18}

193E—7.3(543B) Suspended and revoked licenses

7.3(1) As of the effective date of a suspended or revoked license, the licensee cannot engage in any activity that needs a real estate license as defined in Iowa Code chapter 543B.

7.3(2) When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership are automatically placed on inactive status for the duration of the suspension or revocation, unless transferred to

another sole-proprietor broker, corporation or partnership.

a. When a suspension or revocation is determined, the commission also determines if the corporation or partnership license is automatically canceled.

b. If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be canceled.

7.3(3) A licensee whose license is suspended or revoked may receive compensation during the period of suspension or revocation only for those acts performed and for which compensation was earned when the person was actively licensed prior to the effective date of the suspension or revocation.

This rule does not determine if a licensee is entitled to compensation; such entitlement would depend upon the licensee's written employment or association agreement with the former affiliated broker and a matter of contract law.

7.3(4) All listings and property management agreements is canceled by the broker whose license is suspended or revoked upon receipt of the order of revocation or suspension and prior to the effective date of the order.

a. The seller or landlord, or buyer or tenant, are advised that the seller or landlord, or buyer or tenant, may enter into a listing or brokerage agreement with another broker of choice.

b. A broker whose license is suspended or revoked cannot sell or assign listings or management agreements to another broker without the written consent of the owner of the property, and any sale or assignment of listings or management agreements are completed prior to the effective date of the order.

7.3(5) A broker whose license is suspended or revoked cannot finalize any pending closings. This responsibility is given to another broker, an attorney, a financial institution, or an escrow company.

a. Transfer of this responsibility is done with the written approval of all parties to the transaction.

b. All parties to the transaction are advised of the facts concerning the situation and are provided the name,

address, and telephone number of the responsible entity where all trust and escrow moneys will be held, with the written approval of all parties.

7.3(6) A broker whose license is suspended or revoked is barred from advertising real estate in any manner as a broker. All advertising, including but not limited to signs, are removed or covered within ten calendar days after the effective date of the suspension or revocation.

The real estate brokerage telephone is not answered in any manner to indicate the broker is active in the real estate business.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—7.4(543B) Barred practices. For purposes of this rule only the term “real estate licensee” means “real estate broker or real estate salesperson” as defined in Iowa Code chapter 543B. A licensee participating in any of the practices described in this rule is deemed to be engaging in unethical conduct and a practice harmful or detrimental to the public within the meaning of Iowa Code section 543B.29(1).

7.4(1) An arrangement in which a real estate licensee needs or conditions, in connection with the sale of a lot, that the real estate licensee receive from the homebuilder an exclusive right to sell or list the house to be constructed on the lot.

7.4(2) An arrangement in which a real estate licensee agrees to sell lots on behalf of a developer on the condition that the developer obligates each homebuilder purchasing such a lot to list the house to be constructed with the real estate licensee.

7.4(3) An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer or homebuilder, obligates the consumer or homebuilder to pay a commission on the value of the house to be constructed on the lot.

7.4(4) Any arrangement pursuant to which the sale of real estate to a prospective purchaser is conditioned upon the listing of real estate owned by the prospective purchaser with the real estate licensee.

7.4(5) An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer, obligates the consumer to use a specified homebuilder to build the house to be constructed on the lot.

7.4(6) Any arrangement in which a real estate licensee enters into an agreement with a mortgage broker, bank, savings and loan, or other financial institution pursuant to which the making of a loan is directly or indirectly conditioned upon payment of a real estate commission to the real estate licensee.

7.4(7) Any arrangement pursuant to which a real estate licensee who is affiliated with a mortgage broker, bank, savings and loan association or other financial institution benefits from the practice by the affiliated financial institution of granting mortgage loans or any other loan or financial services or the availability of other benefits directly or indirectly conditioned upon the use of the real estate services of the affiliated licensee.

7.4(8) Any arrangement barred by Iowa Code section 543B.60A.

This rule is intended only to regulate the licensing of real estate licensees in the state of Iowa. This rule is not intended nor should it be interpreted to supplant Iowa Code chapter 553 (The Iowa Competition Law) or as authorizing or approving business practices which are not specifically barred in this rule. The commission, upon receipt of any formal written complaint filed against a licensee alleging a violation of this rule, in addition to evaluating such complaint for license revocation or suspension under Iowa Code chapter 543B, forwards a copy of such complaint to the attorney general of the state of Iowa and to the United States Attorney for investigation and appropriate action.

193E—7.5(543B) Loan finder fees. The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan is considered not in the best interest of the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

193E—7.6(543B) Lotteries barred. Licensees cannot engage in lotteries and schemes of sales involving selling of certificates, chances or other devices, whereby the purchaser is to receive property to be selected in an order to be determined by chance or by some means other than the order of prior sale, or whereby property

more or less valuable will be secured according to chance or the amount of sales made, or whereby the price will depend upon chance or the amount of sales made, or whereby the buyer or tenant ~~may or~~ will not receive, rent, or lease any property. Such activities are declared to be methods by reason of which the public interests are endangered.

193E—7.7(543B) Broker needed to furnish progress report. After an offer to buy has been made by a buyer and accepted by a seller, either party may demand at reasonable intervals and the broker furnishes a detailed statement showing the current status of the transaction.

193E—7.8(543B) Disclosure of licensee interest, acting as a principal, and status as a licensee. A licensee cannot act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family,, or on behalf of the brokerage, or on behalf of an organization or business entity in which the licensee has an interest, unless the licensee provides written disclosure of that interest to all parties to the transaction in accordance with Iowa Code section 543B.56(3)"b". Disclosure obligated under this rule is made at the time of or prior to the licensee's providing specific assistance to the party or parties to the transaction. Copies of the disclosure may be provided in person, electronically or by mail, as soon as reasonably practical. If no specific assistance is provided, disclosure is provided prior to the parties' forming a legally binding contract, either prior to an offer made by the buyer or tenant or prior to an acceptance by the seller or landlord, whichever comes first.

7.8(1) Licensee acting as a principal. A licensee cannot acquire any interest in any property, directly or indirectly, nor can the licensee sell any interest in which the licensee, directly or indirectly, has an interest without first making written disclosure of the licensee's true position clear to the other party. Satisfactory proof of this disclosure is produced by the licensee upon request of the commission. Whenever a licensee is in doubt as to whether an interest, relationship, association, or affiliation obligates disclosure under this rule, the safest course of action is to make the written disclosure.

7.8(2) Status as a licensee. Before buying, selling, or leasing real estate as described above, the licensee discloses in writing any ownership, or other interest, which the licensee has or will have and the licensee's status to all parties to the transaction. An inactive status license does not exempt a licensee from providing the obligated disclosure.

7.8(3) Dual capacity. The licensee does not act in a dual capacity of agent and undisclosed principal in any transaction.

193E—7.9(543B) Financial interest disclosure needed. A licensee who has any affiliated business arrangement or relationship with any provider of settlement services, as defined below, and directly or indirectly refers business to that provider or affirmatively influences the selection of that provider discloses the arrangement and any financial interest to the person whose business is being referred or influenced. The obligated disclosure is acknowledged by the separate signatures of the person or persons whose business is being referred or influenced. The disclosure is given and signed before or at substantially the same time that the business is referred or the provider is selected. If the disclosure is made on a separate form, the licensee retains a copy of the signed disclosure in the transaction file for a period of five years after the execution.

7.9(1) An affiliated business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in the business entity providing the service or product.

a. An associate means one who has one or more of the following relationships with a real estate licensee:

- (1) A spouse, parent, or child of a real estate licensee;
- (2) A corporation or business entity that controls, is controlled by, or is under common control with a real estate licensee;
- (3) An employee, officer, director, partner, franchiser or franchisee of a real estate licensee; or
- (4) Anyone who has an agreement, arrangement or understanding with a real estate licensee or brokerage,

the purpose or substantial effect of which is to enable the real estate licensee to refer for any service, settlement service, or business or product related to the transaction and to benefit financially from the referral of that business.

b. Settlement services include services in connection with a real estate transaction including, but not limited to, the following: mortgage or other financing; title searches; title examinations; the provisions of title certificates, title insurance, hazard insurance; services rendered by an attorney; the preparation of documents; property surveys; the rendering of credit reports or appraisals; pest, fungus, mechanical or other inspections; services rendered by a real estate agent or broker; and the handling of the processing and closing of settlement.

c. An affiliated business arrangement does not include an arrangement in which a real estate licensee, or an associate of a real estate licensee, gives or pays an undisclosed commission in a transaction to any other licensee for a referral to provide real estate brokerage services, including franchise affiliates, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service. Referral fees or commissions paid by a licensee to another licensee under these conditions are exempted from the disclosure criteria.

7.9(2) No particular language is needed for the disclosure. To assist real estate licensees and the public, the commission recommends the following sample language:

DISCLOSURE OF REFERRAL OF BUSINESS

I understand that (name of real estate licensee) has an affiliate relationship with or owns an interest in (name of company to which business is being referred) and is also recommending that I employ this company for (type of service) .

I understand that (name of real estate licensee) may earn financial

benefits from my use of this company. I understand that I am not obligated to use this company, and may select a different company if I wish to do so. This form has been fully explained to me and I have received a copy.

(Date)

(Signature of person whose business is being referred)

7.9(3) The term “franchise” has the same meaning as set forth in 24 CFR Chapter XX, Section 3500.15(c) as of April 1995.

7.9(4) The term “affiliate relationship” means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

7.9(5) The term “beneficial ownership” means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person’s name.

7.9(6) The term “direct ownership” means the holding of legal title to an interest in a provider of settlement services except where title is being held for the beneficial owner.

7.9(7) The term “control” as used in the definition of “affiliate relationship” means that a person:

- a. Is a general partner, officer, director, or employer of another person;
- b. Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests of another person;

- c.* Affirmatively influences in any manner the election of a majority of the directors of another person; or
- d.* Has contributed more than 20 percent of the capital of the other person.

193E—7.10(543B) Agency-designated broker responsibilities. The following conditions and circumstances, together with the education and experience of licensed and unlicensed employees and independent contractors, is considered when determining whether or not the designated broker has met the supervisory responsibilities as set forth by Iowa Code section 543B.62, subsection (3), paragraph “*b.*”

7.10(1) When making a determination, the commission may consider, but is not limited to consideration of, the following:

- a.* Availability of the designated broker/designee to assist and advise regarding brokerage-related activities;
- b.* General knowledge of brokerage-related staff activities;
- c.* Availability of quality training programs and materials to licensed and unlicensed employees and independent contractors;
- d.* Supervisory policies and practices in the review of competitive market analysis, listing contracts, sales contracts and other contracts or information prepared for clients and customers;
- e.* Frequency and content of staff meetings;
- f.* Written company policy manuals for licensed and unlicensed employees and independent contractors;
- g.* Ratio of supervisors to licensed employees and independent contractors; and
- h.* Assignment of an experienced licensee to work with new licensees.

7.10(2) The designated broker disseminates, in a timely manner, to licensed employees and independent contractors all regulatory information received by the brokerage pertaining to the practice of real estate brokerage.

193E—7.11(543B) Supervision needed. An employing or affiliated broker is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the broker as a

representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate does not relieve either the broker or the salesperson or broker associate of duties, obligations or responsibilities obligated by law.

7.11(1) Each salesperson and broker associate keeps the broker fully informed of all activities being conducted on behalf of the broker in accordance with Iowa Code section 543B.62(3)“b”.

7.11(2) The activities of a salesperson or broker associate acting as a principal in the sale, lease, rental, or exchange of property owned by the licensee could impact the salesperson’s or broker associate’s license and the license of the employing or affiliated broker.

a. When a licensee is acting as a principal, the licensee keeps the employing or affiliated broker fully informed of all activities.

b. While this rule does not obligate that a licensee list property owned by the licensee with the employing or affiliated broker, the broker may obligate as a condition of employment or affiliation that the licensee list the property with the employing or affiliated broker or pay a commission.

7.11(3) A broker associate, means the same as Iowa Code section 543B.5(5) and rule 193E—2.1(543B).A broker associate is subject to the provisions of Iowa Code sections 543B.24 and 543B.33 and commission rules pertaining to salespersons during the time the broker remains a broker associate.

7.11(4) A broker who sponsors a salesperson during the salesperson’s first year of licensure must be able to demonstrate that the broker has the time available and experience necessary to adequately supervise an inexperienced salesperson.

193E—7.12(543B) Commission controversies. The commission will not and is not authorized by law to consider or conduct hearings involving disputes over fees or commissions between cooperating brokers, salespersons, and other brokers.

7.12(1) A former employing or affiliated broker may pay a commission directly to a broker associate or

salesperson who is presently assigned to another broker or firm, or whose license is inactive, expired, suspended or revoked, only if the commission was earned while the broker associate or salesperson was actively licensed and assigned to the former broker. Whether or not a commission was earned while the broker associate or salesperson was licensed with the former broker depends upon the licensee's written agreement with the former broker. The commission will not determine if a commission is earned or if a commission is to be paid.

7.12(2) If the licensee is presently assigned to another broker or firm, the former broker does not pay the commission to the new employing or affiliated broker or firm.

7.12(3) An Iowa real estate broker may pay a commission or fee to or receive a commission or fee from a nonresident broker who is actively licensed in the broker's resident state but not licensed in Iowa. The nonresident broker takes no part in the listing, showing, negotiating offers or any other functions of a broker in Iowa unless actively licensed in Iowa.

7.12(4) Upon the termination of association or employment with the affiliated broker or firm, the broker associate or salesperson cannot take or use any written listing or brokerage agreements secured during the association or employment. Said listings and brokerage agreements remain the property of the broker or firm and may be canceled only by the broker and the seller, unless the terms of the listing or brokerage agreement state otherwise.

193E—7.13(543B) Support personnel for licensees; permitted and barred activities. Whenever a licensee affiliated with a broker engages support personnel to assist the affiliated licensee in the activities of the real estate brokerage business, both the firm or sponsoring broker and the affiliated licensee are responsible for supervising the acts or activities of the personal assistant; however, the affiliated licensee has the primary responsibility for supervision. Unless the support person holds a real estate license, the support person cannot perform any activities, duties, or tasks of a real estate licensee as identified in Iowa Code sections 543B.3 and 543B.6 and may perform only ministerial duties that do not need discretion or the exercise of the licensee's

own judgment. Personal assistants are considered support personnel.

7.13(1) Individuals actively licensed with one firm or broker cannot work as support personnel for a licensee affiliated with another firm or broker. Individuals with an inactive status license may work as support personnel for a licensee, but cannot participate in any activity that needs a real estate license.

7.13(2) Any real estate brokerage firm or broker that allows an affiliated licensee to employ, or engage under an independent contractor agreement, support personnel to assist the affiliated licensee in carrying out brokerage activities comply with the following:

- a.* Implement a written company policy authorizing the use of support personnel by licensees;
- b.* Specify in the written company policy, which may incorporate the duties listed in 7.13(4), any duties that the support personnel may perform on behalf of the affiliated licensee;
- c.* Ensure that the affiliated licensee and the support personnel receive copies of the duties that support personnel may perform.

7.13(3) Broker supervision and improper use of license and office. While individual and designated brokers are responsible for supervising the real estate-related activities of all support personnel, an affiliated licensee employing a personal assistant has the primary responsibility for supervision of that personal assistant. A broker is not held responsible for inadequate supervision if:

- a.* The unlicensed person violated a provision of Iowa Code chapter 543B or of commission rules that is in conflict with the supervising broker's specific written policies or instructions;
- b.* Reasonable procedures have been established to verify that adequate supervision was being provided;
- c.* The broker, upon hearing of the violation, attempted to prevent or mitigate the damage;
- d.* The broker did not participate in the violation; and
- e.* The broker did not attempt to avoid learning of the violation.

7.13(4) In order to provide reasonable assistance to licensees and their support personnel, but without

defining every permitted activity, the commission has identified certain tasks that unlicensed support personnel under the direct supervision of a licensee affiliated with a firm or broker may not perform.

a. Permitted activities include, but are not limited to, the following:

(1)	Answer the telephone, provide information about a listing to other licensees, and forward calls from the public to a licensee;
(2)	Submit data on listings to a multiple listing service;
(3)	Check on the status of loan commitments after a contract has been negotiated;
(4)	Assemble documents for closings;
(5)	Secure documents that are public information from the courthouse and other sources available to the public;
(6)	Have keys made for company listings;
(7)	Write advertisements and promotional materials for the approval of the licensee and supervising broker;
(8)	Place advertisements in magazines, newspapers, websites, social media and other media as directed by the supervising broker;
(9)	Record and deposit earnest money, security deposits, and advance rents, and perform other bookkeeping duties;
(10)	Type contract forms as directed by the licensee or the supervising

	broker;	
(11)	Monitor personnel files;	
(12)	Compute commission checks;	
(13)	Place signs on property;	
(14)	Order items of routine repair as directed by a licensee;	
(15)	Act as courier for such purposes as delivering documents or picking up keys. The licensee remains responsible for ensuring delivery of all executed documents obligated by Iowa law and commission rules;	
(16)	Schedule appointments with the seller or the seller's agent in order for a licensee to show a listed property;	
(17)	Arrange dates and times for inspections;	
(18)	Arrange dates and times for the mortgage application, the preclosing walk-through, and the closing;	
(19)	Schedule an open house;	
(20)	Perform physical maintenance on a property; or	
(21)	Accompany a licensee to an open house or a showing and perform the following functions as a host or hostess: <ol style="list-style-type: none"> 1. Open the door and greet prospects as they arrive; 2. Hand out or distribute prepared printed material; 	

	<p>3. Have prospects sign a register or guest book to record names, addresses and telephone numbers;</p> <p>4. Accompany prospects through the home for security purposes and not answer any questions pertaining to the material aspects of the house or its price and terms.</p>
(22)	Independently host open houses for tours attended by licensed brokers and salespersons only.

b. Barred activities include, but are not limited to, the following:

(1)	Making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, leasing, sale, exchanges, or property management;
(2)	Independently hosting open houses, kiosks, home show booths, or fairs attended by the public;
(3)	Preparing promotion materials or advertisements without the review and approval of licensee and supervising broker;
(4)	Showing property independently;
(5)	Answering any questions on title, financing, or closings (other than time and place);
(6)	Answering any questions regarding a listing except for information on price and amenities expressly provided in writing by the

	licensee;
(7)	Discussing or explaining a contract, listing, lease, agreement, or other real estate document with anyone outside the firm;
(8)	Negotiating or agreeing to any commission, commission split, management fee, or referral fee on behalf of a licensee;
(9)	Discussing with the owner of real property the terms and conditions of the real property offered for sale or lease;
(10)	Collecting or holding deposit moneys, rent, other moneys or anything of value received from the owner of real property or from a prospective buyer or tenant;
(11)	Providing owners of real property or prospective buyers or tenants with any advice, recommendations or suggestions as to the sale, purchase, exchange, rental, or leasing of real property that is listed, to be listed, or currently available for sale or lease; or
(12)	Holding one's self out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee.

[ARC 8519B, IAB 2/10/10, effective 3/17/10]

193E—7.14(543B) Information provided by nonlicensed support personnel limited. Nonlicensed support personnel may, on behalf of the employer licensee, provide information concerning the sale, exchange, purchase, rental, lease, or advertising of real estate only to another licensee. Support personnel provides

information only to another licensee that has been provided to the personnel by the employer licensee either verbally or in writing.

193E—7.15(543B) Presenting purchase agreements. All written offers to purchase received by a listing broker or listing agent are promptly presented to the seller for formal acceptance or rejection. The formal acceptance or rejection of the offer is promptly communicated to the prospective buyers. Unless there is written agreement between the seller and the listing broker directing otherwise, the listing broker is obligated to present back-up offers until the transaction has closed.

7.15(1) A customer's agent seeking compensation from the listing broker cannot prepare an offer to purchase on the property without first obtaining authorization and agreement from the listing broker.

7.15(2) A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

7.15(3) Immediately upon receiving an offer to purchase signed and dated by the buyer with consideration, if any, the listing agent provides a copy of the offer to purchase to the buyer as a receipt.

7.15(4) A customer's agent or representative cannot negotiate directly or indirectly with a seller or buyer, or landlord or tenant, if the agent knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has a written unexpired listing or brokerage agreement for services on an exclusive basis.

7.15(5) A listing agent cannot refuse to permit a customer's agent or representative to be present at any step in a real estate transaction including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with an agent about a property listed by such agent; and no agent refuses to show a property listed by that agent or otherwise deal with a represented customer who requests that the customer's agent or representative be present at any step in the real estate transaction, except as provided in this subrule.

a. The customer's agent or representative does not have the right to be present at any discussion of confidential matters or evaluation of the offer by the seller and the listing agent.

b. Unless the seller provides written instructions to the listing agent to exclude a customer's agent or representative from being present when the offer is presented, it is not unlawful for the customer's agent or representative to be present.

c. Compliance with this rule does not need or obligate a listing broker to share any commission or to otherwise compensate a customer's agent.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed May 25, 1953; amended June 11, 1953, May 31, 1957, January 15, 1963, May 10, 1966, July 13, 1967, August 10, 1973, December 11, 1973, May 13, 1975]

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 [Editorial change: IAC Supplement 11/4/09]

[Filed ARC 8519B (Notice ARC 8291B, IAB 11/18/09), IAB 2/10/10, effective 3/17/10]
 [Filed ARC 3500C (Notice ARC 3154C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]

- 1 Effective date of amendment to rule 1.21 delayed 70 days by the Administrative Rules Review Committee.
- 2 Effective date of 1.31(543B) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.
- 3 Effective date of 1.1, definition of “referral fee”; 1.41, introductory paragraph; and subrules 1.41(3) and 1.41(7) delayed 70 days by the Administrative Rules Review Committee at its meeting held April 7, 2000; rescinded IAB 6/28/00, effective 6/9/00.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	402
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	97

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 27, 2023	Total Rule Count:	3
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	8	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 8 is an explanation of how to properly close a real estate firm or sole proprietorship. We have quite a few brokers that just end up leaving the business but fail to close their firm with us. If a licensee remains active, they are subject to our audits to include trust account, E&O insurance and continuing education. A broker is to follow these rules to close their firm, trust account and know to keep their records for 5 years. This is also important for the public to understand even though a firm is closed or broker inactive, that their records are still being kept for the 5 years and they can still contact that broker.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to brokers to properly close their firm. This may not seem like an important chapter to some but the commission has quite a few brokers that just retire or stop business without notifying the commission. Without closing the firm, someone from the public could do a license search and believe this company is still in business. It is necessary to have proper procedures.

What are the costs incurred by the public to comply with the rule?

A broker incurs minimal costs to close their firm and notify the Commission in accordance with this chapter.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency incurs costs for staff to enforce, implement and process applications.

Do the costs justify the benefits achieved? Please explain.

Yes, commission staff salaries are paid by the agency to process applications and enforce rules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

I was able to reduce restrictive language and outdated language. The majority of the changes is removal of restrictive language.

8.1
8.2
8.3

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 8

CLOSING A REAL ESTATE BUSINESS

193E—8.1(543B) Closing a real estate firm. The following steps are necessary for the voluntary closing of a real estate brokerage firm. The individual broker or the designated broker:

8.1(1) Notifies the commission via electronic application upon closing the firm. The following information may be included:

- a. The date the firm closed or will close;
- b. The location where records and files will be stored for a minimum of five years; and
- c. The name, address, and telephone number of the custodian who will be storing the records and files;

8.1(2) Notifies all licensees associated with the firm in writing of the effective date of the closing. The former affiliated broker makes every reasonable effort to return the licenses of any licensees associated with the firm at the time of closing to the commission within 72 hours, with written notice that the firm is closed;

8.1(3) Notifies all listing and management clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All listing and management clients are advised in writing that

they may enter into a new listing or management agreement with the broker of their choice;

8.1(4) Removes advertising signs from all properties that were listed with or managed by the firm. Arrange to cancel advertising in the name of the firm, including office signs, Internet to include websites and social media and telephone listing advertisements;

8.1(5) Maintains all escrow or trust accounts until all moneys are transferred to the lending institution, an escrow company or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

8.1(6) Arranges for pending contracts to be closed by a lending institution, an escrow company or an attorney. In the case of a sale, transfer or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. The broker notifies all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

193E—8.2(543B) Involuntary closing of a sole-proprietor brokerage. Upon the death or disability of a sole-proprietor broker in which the affairs of the broker cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

8.2(1) All licensees associated with the broker cease all brokerage activity until their licenses have been transferred to another broker;

8.2(2) The executor or legal representative of the broker's estate, if an attorney or a broker, may conclude pending business; and

8.2(3) The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

193E—8.3(543B) Involuntary closing of a corporation, partnership, or association brokerage firm.

8.3(1) In the event of an involuntary closing of a brokerage firm as a result of the death or incapacity of one

or more of the licensed broker officers, broker partners or broker associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

- a. All licensees associated with the firm cease all brokerage activity until their licenses have been transferred to another broker;
- b. The executor of the broker’s estate, if an attorney, or the legal representative of the firm may conclude pending business; and
- c. The administrator or executor of the broker’s estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

8.3(2) In the event of the death or incapacity of a designated broker for a firm, the affairs of the firm may be carried on by naming a new designated broker. The commission is notified of the change within 72 hours.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	30
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	June 26, 2023	Total Rule Count:	3
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	9	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 9 is an explanation of the Commission’s fees. This whole chapter is regarding the license fees that the commission charges per license along with renewal fees, late fees, bad payment fees. It is important to be transparent to the public and potential licensees all costs that are incurred to obtain your license with the commission. Our office does not charge for education or exams, however, those are charges that the applicant will pay directly to approved schools and exam provider. Our fees are comparable to surrounding states. Nebraska’s fees are less, however, they have a two year license cycle whereas we have a three year cycle. Illinois has quite a few different licensing options and is higher in general. I would say over all we are comparable or equal to the surrounding states. I put fee amounts in chapters 3 and 4 to compare costs. I did find out that a couple states charge for courses approval applications, transfer applications, going active etc...The Commission does not charge for any of those applications. Please also take note on comparison’s with other states on the chart that I attached.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains how much a licensee fee along with explaining the rule of submitting a bad payment to the Commission is a violation. This is a straightforward chapter that did not need much for revising.

What are the costs incurred by the public to comply with the rule?

The cost to comply with the rule would be paying the fees but no cost to have the rules.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost for the agency is staff to implement and enforce the rules. There is also a staff cost to process the payments.

Do the costs justify the benefits achieved? Please explain.

Yes, commission staff is a necessary cost to regulate the rules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language. The biggest change to this chapter is taking out the word “check” to reflect all payments as we now take ACH, CC, cash and checks.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

This is a basic chapter to include the licensing fees. No changes were made to the fees but restrictive language was removed.

9.2
9.2 (4)
9.2 (5)
9.6 (6)

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 9

FEES

[Prior to 9/4/02, see 193E—2.9(543B)]

193E—9.1(543B) Fees.

9.1(1) Original license or renewal.

Broker license	\$170
Additional officer or partner license	\$ 50
Firm license	\$170

Branch office license	\$ 50
Trade name license	\$ 50
Salesperson license	\$125

9.1(2) Fee for renewal of broker and salesperson license between January 1 and January 30 following expiration of license is the regular renewal fee plus \$25 reinstatement fee.

Broker license	\$195
Salesperson license	\$150

Reinstatement fee is not applicable to a firm license, additional officer license, additional partner license, trade name license, or branch office license.

9.1(3) Fee for certification of license is \$25.

193E—9.2(543B) Refunds and bad payments.

9.2(1) Fees remitted with an application for license will be refunded if the commission finds the applicant is not qualified for a license.

9.2(2) Fees will not be refunded for the unexpired term of a license that has been issued and is in effect.

9.2(3) A fee remitted in error will be refunded if it is received as a separate check. If not received as a separate check, a fee remitted in error will be refunded if a written request is received within 30 days of receipt of the fee.

9.2(4) Payment of a fee with a bad payment is prima facie evidence of a violation of Iowa Code section 543B.29(1) or 543B.34(8) or both.

9.2(5) If a bad payment is received for an original license, the application for license is deemed incomplete

and the license null and void.

9.2(6) If a bad payment is received for renewal of a license, the application is deemed incomplete and the license issued for the new term is deemed null and void. If a replacement payment is not received by the commission by the date of expiration of the license (December 31), the appropriate reinstatement fee is added to the unpaid renewal fee.

193E—9.3(543B) Examination fee. The examination fee is paid directly to the testing service at the prevailing rate established by contract between the commission and the testing service.

These rules are intended to implement Iowa Code section 543B.27.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	26
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	June 29, 2023	Total Rule Count:	3
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	10	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 10 is an explanation of rules regarding advertising. Real estate licensees utilize advertising as a main source to seek business. There needs to be rules and guidelines on advertising in the real estate or it will be an issue. We do have complaints submitted on licensees for advertising trade name or team names before they license them with the commission. It is important for the public to be able to search for a team name or tradename and find it licensed properly to the correct company and licensees. When a lay person searches for this trade name and they cannot find it, they are confused and believe they are not licensed.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains what is allowed and how to properly advertise their business. IREC is able to follow these rules to help licensees navigate proper advertising.

What are the costs incurred by the public to comply with the rule?

No direct costs to the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staffing costs are incurred to implement and enforce these rules.

Do the costs justify the benefits achieved? Please explain.

Yes. Staff is a necessary cost to achieve the rules being implemented.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language. There was not a lot of restrictive language, however, I did not some updating because websites and social media is the main platform of advertising for real estate at this time.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

All three rule counts were updated to remove restrictive language along with outdated information.
All of 10.1-updated language
10.2
All of 10.3

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 10

ADVERTISING

[Prior to 9/4/02, see 193E—Ch 1]

193E—10.1(543B) Advertising. A broker cannot advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer is being made by a private party not engaged in the real estate business, and no real estate advertisement can show only a post office box number, telephone number or street address. Every licensee, when advertising real estate, will use the licensed business name or the name under which the broker is licensed, and affirmatively and unmistakably indicate that the party is a real estate licensee and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission, or clearly reveals in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.

10.1(1) Advertising includes all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. Forms of advertising include, but not limited to, real estate brokerage checks, letterhead, email, signs, websites, social media and business cards.

10.1(2) Real estate advertising cannot be misleading or deceptive or intentionally misrepresent any property, terms, values, or policies and services of the brokerage.

10.1(3) All advertising is conducted under the supervision of the broker. The broker ensures the accuracy of the information and, upon becoming aware of a material error or an advertisement that is in violation of this chapter or Iowa Code chapter 543B, the broker promptly corrects the error or problem within ten calendar days.

10.1(4) A licensed firm advertising or marketing on a website or social media account that is either owned by or controlled by the licensed firm includes the following data on each page of the site on which the firm's advertisement or information appears:

- a.* The firm or tradename as registered with the commission (abbreviations are not permitted);
- b.* The city and state in which the firm's main office is located; and
- c.* The states in which the firm holds a real estate brokerage license.

10.1(5) A licensee advertising or marketing on a website or social media account that is either owned by or controlled by the licensee includes the following data on each page of the site on which the licensee's advertisement or information appears:

- a.* The licensee's legal name;
- b.* The name of the firm or trade name with which the licensee is affiliated as that firm name is registered with the commission (abbreviations are not permitted);
- c.* The city and state in which the licensee's office is located; and
- d.* The states in which the licensee holds a real estate broker or salesperson license.

10.1(6) A firm using any Internet electronic communication for advertising or marketing, including but not limited to E-mail, websites, and social media accounts includes the information in rule 193E—10.1(4).

10.1(7) A licensee using any Internet electronic communication for advertising or marketing, including but not limited to E-mail, websites, and social media accounts includes on the first or last page of all communications the information in rule 193E—10.1(5).

193E—10.2(543B) Advertising under own name. Salespersons and broker associates are barred from

advertising under their own names unless they are the owners of the property they are advertising for sale, rent, lease or exchange, and on which no brokerage fees are to be paid. The sale is completely a “for sale by owner” transaction. The property cannot be listed or advertised in any way that would make it appear to be listed with a brokerage. The affiliated licensee cannot function in any capacity that needs a real estate license, and the licensee is responsible for all advertising conducted on the licensee’s own behalf.

193E—10.3(543B) Signs on property. Placing a sign on any property offering it for sale, rent, lease, or exchange without the written consent of the owner is not considered in the best interest of the general public.

10.3(1) When a listing expires, unless a new written listing or extension is obtained, the licensee immediately ceases advertising and active marketing of the property. The licensee makes every reasonable effort to remove signs as quickly as possible.

10.3(2) The licensee makes every reasonable effort to remove signs from the property after the transaction is closed. Sold signs and other signs are not left on properties without the written consent of the new owner of record.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	122
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	July 12, 2023	Total Rule Count:	7
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	11	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 11 is an important chapter of rules regarding Brokerage and Listing agreements between someone from the public to enter into a legal agreement with a licensee regarding the sale or purchase of a property. Without these rules the state would not be protecting the public from harm from a licensee. The public is also able to use these contracts in a civil court when the sale does not go as agreed upon. Our office does not get involved in contract disputes but we do receive several complaints regarding this chapter. This chapter is very important for licensees and the public to protect themselves.

Is the benefit being achieved? Please provide evidence.

Yes. This is one of the most important chapter of 193E. These agreements are used in civil law suits at times. This is a legal negotiation of a sale or lease of a property. This is a chapter that protects the public not to be taken advantage of by a licensee.

What are the costs incurred by the public to comply with the rule?

The costs could be high for the public if this chapter were not in place.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is no enforcement cost to the rules, other than what would be required by statute. There is staff cost to implement and enforce.

Do the costs justify the benefits achieved? Please explain.

Yes, the commission has staff to help implement, enforce, and explain to the public all Iowa rules and laws.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language. This is a complex chapter that cannot be condensed down much but I did remove as much restrictive language as possible.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

This chapter has been updated with restrictive language along with removing outdated language.

All of 11.1 updated restrictive language

11.2 removed restrictive language

All of 11.3 updated removing restrictive language and redundant section removed

11.4 restrictive language removed

11.5 restrictive language removed

11.6 restrictive language removed

11.7 restrictive language removed

RULES PROPOSED FOR REPEAL (list rule number[s]):

193E 11.3 (9)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 11

BROKERAGE AGREEMENTS AND LISTINGS

[Prior to 9/4/02, see 193E—Ch 1]

193E—11.1(543B) Listing brokerage agreements. All listing agreements are in writing, properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the price, the commission to be paid, the signatures of all parties concerned and a definite expiration date. The agreement contains no provision requiring a party signing the listing to notify the broker of the listing party's intention to cancel the listing after such definite expiration date. An exclusive agency or exclusive right to sell

listing clearly indicates that it is such an agreement. A legible copy of every written listing agreement or other written authorization is given to the owner of the property by a licensee as soon as the signature of the owner is obtained.

11.1(1) A licensee cannot solicit or enter into a listing or brokerage agreement with an owner if the licensee knows or has reason to know that the owner has a written unexpired exclusive agency or exclusive right to sell listing agreement to the property with another broker, unless the owner initiates the discussion and the licensee has not directly or indirectly solicited the listing or brokerage agreement.

a. However, if the owner initiates the discussion, the licensee may negotiate and enter into a listing or brokerage agreement that will take effect after the expiration of the current listing.

b. If the owner initiates the discussion, the licensee may inform the owner that the owner needs to allow the current listing to expire or obtain a mutually acceptable cancellation from the listing broker before any further discussion can take place.

11.1(2) A real estate licensee cannot negotiate a sale, exchange, or lease of real property directly with an owner if it is known that the owner has a written unexpired contract in connection with the property which grants an exclusive right to sell to another broker, or which grants an exclusive agency to another broker.

11.1(3) A listing agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.1(4) Net listing barred. No licensee makes or enters into a net listing agreement for the sale of real property or any interest in real property. A net listing agreement is an agreement that specifies a net sale price to be received by the owner with the excess over that price to be received by the broker as commission. The taking of a net listing is unprofessional conduct and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.1(5) A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's

fee or commission for real estate brokerage services without that licensee's prior written consent.

11.1(6) Any commission or fee in any listing agreement is fully negotiable among the parties to that listing agreement. Once the parties to a listing agreement have agreed to a commission or fee, no licensee other than a party to the listing agreement attempts to alter, modify, or change or induce another person to alter, modify or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that listing agreement.

193E—11.2(543B) Enforcing a protective clause. To enforce a protective clause beyond the expiration of an exclusive listing contract, there is a provision for the protective clause in the listing contract which establishes a definite protection period. In writing and prior to the expiration of the listing, the broker furnishes to the listing party the names and available contact information of persons to whom the property was presented during the active term of the listing and for whom protection is sought. Delivery is by personal service with written acknowledgment of receipt, or by both regular mail and certified mail, return receipt requested.

[**ARC 9505B**, IAB 5/18/11, effective 6/22/11; **ARC 9929B**, IAB 12/28/11, effective 2/1/12]

193E—11.3(543B) Brokerage agreements. All brokerage agreements are written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement, unless the terms of the agreement state otherwise. Upon termination of association or employment with the principal broker, the affiliated broker associate or salesperson cannot take or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.

11.3(1) Every written brokerage agreement includes, at a minimum, the criteria set forth in Iowa Code section 543B.57 and the following provisions:

a. All listing contracts and all brokerage agency contracts contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages whether the brokerage is acting as subagent or

the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

b. All listing contracts and all brokerage agency contracts comply with Iowa real estate law and commission rules including, but not limited to, rules 193E—11.1(543B) and 11.4(543B) and 193E—Chapter 15.

11.3(2) No licensee makes or enter into a brokerage agreement that specifies a net sale, lease, rental, or exchange price to be received by an owner and the excess to be received by the licensee as a commission.

11.3(3) The taking of a net brokerage agreement is unprofessional conduct and a practice that is harmful or detrimental to the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.3(4) Duration of relationship. The relationships commence at the time of the brokerage agreement and continue until closing of the transaction or performance or completion of the agreement by which the broker was engaged within the term of the agreement. If the transaction does not close, or the agreement for which the broker was engaged is not performed or completed for any reason, the relationship ends at the earlier of the following:

- a.* Any date of expiration agreed upon by the parties; or
- b.* Any termination by written agreement of the parties.

11.3(5) Obligation terminated. In addition to any continuing duty or obligation provided in the written agreement or pursuant to Iowa law and commission rules, a broker or brokerage engaged as a seller's or landlord's agent, buyer's or tenant's agent, subagent, or dual agent and affiliated licensees have the duty after termination, expiration, completion, or performance of the brokerage agreement to:

- a.* Account for all moneys and property related to and received during the engagement; and
- b.* Keep confidential all information received during the course of the engagement which was made

confidential by request or instructions from the engaging party or is otherwise confidential by statute or rule.

11.3(6) Compensation. In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or by the sharing or splitting of a commission or compensation between brokers.

a. Payment of compensation-is not to be construed to determine or establish an agency relationship. The payment of compensation to a broker does not determine whether a brokerage relationship has been created between any broker and a seller, landlord, buyer, or tenant paying such compensation.

b. Written permission of the client is needed as follows:

(1) A seller's or landlord's agent may share the commission or other compensation paid by such seller or landlord with another broker, with the written consent of the seller or landlord.

(2) A buyer's or tenant's agent may share the commission or other compensation paid by such buyer or tenant with another broker, with the written consent of the buyer or tenant.

(3) Without the written approval of the client, a seller's or landlord's agent cannot propose to the buyer's or tenant's agent that such seller's or landlord's agent may be compensated by sharing compensation paid by such buyer or tenant.

(4) Without the written approval of the client, a buyer's or tenant's agent cannot propose to the seller's or landlord's agent that such buyer's or tenant's agent may be compensated by sharing compensation paid by such seller or landlord.

c. A broker may be compensated by more than one party for services in a transaction if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange.

d. A licensee cannot accept, receive or charge an undisclosed commission for a transaction.

e. A licensee cannot give or pay an undisclosed commission to any other licensee for a transaction, except payment for referrals to other licensees, including franchise affiliates, to provide real estate brokerage services,

if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service.

f. A licensee cannot pay any undisclosed rebate to any party to a transaction.

g. A licensee cannot give any undisclosed credit against commission due from a client or licensee to any party to a transaction.

h. A licensee cannot accept, receive or charge any undisclosed payments for any services provided by any third party to any party to a transaction including, but not limited to, payments for procuring insurance or for conducting a property inspection related to the transaction.

i. The provisions of these rules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease, as long as any client relationship has terminated.

j. The provisions of these rules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to the parties' signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease, as long as no client relationship has been established with the buyer or lessee.

11.3(7) Solicitation of brokerage agreements. A licensee cannot advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has contracted with another broker for the same brokerage services on an exclusive basis.

a. This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

b. A brokerage agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.3(8) Any commission or fee in any brokerage agreement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a commission or fee, no licensee other than a party to that brokerage agreement attempts to alter, modify, or change or induce another person to alter, modify, or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

11.3(9) A commission split agreement between brokers ~~should be~~ needs to be a separate document and not included in the purchase agreement. A purchase agreement should not be made contingent upon the selling broker's receiving a certain percentage of the listing broker's commission.

193E—11.4(543B) Terms or conditions. A licensee cannot write, prepare or otherwise use a contract containing terms or conditions that would violate real estate laws in Iowa Code chapter 543B or commission rules.

The broker is responsible to ensure that all preprinted documents and forms used are in compliance with these rules.

193E—11.5(543B) Distribution of executed instruments. Upon execution of any instrument in connection with a real estate transaction, a licensee, as soon as practicable, delivers a legible copy of the original instrument to each of the parties thereto. It is the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this criteria. The broker retains copies for five years.

193E—11.6(543B) Rebates and inducements.

11.6(1) A licensee cannot pay a commission, any part of a commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that needs a real estate

license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that needs a real estate license, are barred.

11.6(2) In a listing contract, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller or landlord that is a principal party to the listing contract. This will be deemed a reduction in the amount of the earned commission.

11.6(3) A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as any client relationship has terminated.

11.6(4) A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to that party's signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws, such as gaming regulations. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

11.6(5) The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement is free from deception and does not serve to distort the true value of the real estate service being promoted.

11.6(6) A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a.* There are no limitations placed on the payment;
- b.* The donation is for a specific amount;

- c.* The receiving entity does not act or participate in any manner that would need a license;
- d.* The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e.* The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donation will be made; and
- f.* All necessary disclosures are made.

193E—11.7(543B) New construction. A contract with a builder to construct or attach personal property or other type of structure to land and thereby produce an improvement to real estate is a real estate transaction. A licensee makes written disclosure revealing that the licensee and the licensee’s broker or brokerage firm will receive a commission, compensation, or valuable consideration for its efforts in the transaction, as obligated by 11.3(6) “*d.*” Written disclosure is necessary regardless of the type of representation provided by the licensee or if the licensee provides no representation.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9505B (Notice ARC 9389B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

[Filed ARC 9929B (Notice ARC 9753B, IAB 9/21/11), IAB 12/28/11, effective 2/1/12]

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****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	17
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	57

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

[Empty box for recommendations]

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	July 13, 2023	Total Rule Count:	7
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	12	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 12 is in regards to licensees disclosing their relationships to all parties. This chapter is very important as all parties to a transaction have the right to know if there are any relationships engaging in the transaction. Without a licensee having to fully disclose information, it could potentially harm someone else not fully knowing or understanding any relationships or ownership that is being conducted within the transaction. This allows someone not to engage in the transaction if they are not comfortable with the relationships or ownership of the licensee.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to licensees and the public of the needed disclosures. Someone from the public is able to utilize these rules in their transaction.

What are the costs incurred by the public to comply with the rule?

There are no upfront costs to the public. But this could be a high cost to the public if harmed.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost for the agency is for staff to implement and enforce the rules.

Do the costs justify the benefits achieved? Please explain.

Yes, the commission staff is employed to implement and enforce Iowa rules and laws.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, restrictive language has been removed along with any outdated information.

All of 12.1 – restrictive language updated

All of 12.2 – updated language to be less restrictive and removed outdated information

All of 12.3 – updated restrictive language

All of 12.4 redundant language removed along with restrictive language

All of 12.5 – redundant language and restrictive language removed.

All of 12.6 – removed restrictive language

All of 12.7 – removed restrictive language and removed redundant language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 12

DISCLOSURE OF RELATIONSHIPS

[Prior to 9/4/02, see 193E—Ch 1]

193E—12.1(543B) Written company policy needed. Every licensed sole-proprietor single broker, firm, partnership, limited liability company, association, or corporation has a written company policy. Regardless of the type or types of agency relationships offered, a written company policy is needed.

12.1(1) The written company policy identifies and describes the types of real estate brokerage relationships in which the broker and affiliated licensees may engage with seller, landlord, buyer, or tenant as a part of any real estate brokerage business activities.

12.1(2) In addition, every real estate brokerage that offers representation to both buyers and sellers, and tenants and landlords, also specifically addresses the following:

a. The appointed agent's policy and brokerage procedures intended to prevent any mishandling of information through both formal and informal sharing of information within the brokerage; and

b. The arrangement of brokerage office space and the personal relationships of affiliated licensees who are representing clients with adverse interests.

12.1(3) A broker is not obligated to offer or engage in more than one type of brokerage relationship as

enumerated in rules 193E—12.3(543B) to 193E—12.5(543B).

193E—12.2(543B) Disclosure of agency.

12.2(1) A licensee cannot represent any party or parties to a real estate transaction or otherwise act as a real estate broker or salesperson unless that licensee makes disclosure to all obligated parties to the transaction identifying which party or parties, if any, that licensee represents in the transaction. Disclosure pursuant to this rule is made by the licensee at the time the licensee provides specific assistance to the client or nonrepresented customer.

12.2(2) Verbal disclosure needed. The disclosure obligated by 12.2(1) is made verbally by the licensee prior to the licensee's providing specific assistance to the client or nonrepresented customer. A change in the licensee's representation that makes the initial verbal disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made immediately.

12.2(3) Written disclosure needed The written disclosure obligated by 12.2(1) is made by the licensee to all parties to a real estate transaction identifying which party the licensee represents in the transaction.

a. The written disclosure is needed to be made to the buyer or tenant prior to any offer, lease, or rental agreement being made or signed by the buyer or tenant, and prior to any offer, lease, or rental agreement being signed or accepted by the seller or landlord.

b. The written disclosure is acknowledged by separate signatures of all parties to the transaction. A change in the licensee's representation that makes the initial written disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made which is followed by a new written disclosure signed by all parties to the transaction as soon as practical.

12.2(4) A licensee representing a buyer or tenant informs the listing broker, the listing agent, or the seller or landlord, of the agency relationship in accordance with Iowa Code section 543B.57(5). . If the property is not listed, the obligated disclosure is made to the unrepresented seller or landlord.

12.2(5) The seller or landlord may, in the listing or brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

12.2(6) Nothing contained in this rule obligates any buyer or tenant or seller or landlord to pay compensation to a licensee unless the buyer or tenant or seller or landlord has entered into a written listing or brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

12.2(7) The obligation of either the seller or landlord or buyer or tenant to pay compensation to a broker does not establish an agency relationship or affect any agency relationship.

12.2(8) Nothing contained in this rule bars a party from entering into a written listing or brokerage agreement with a broker which contains duties, obligations, and responsibilities that are in addition to those specified in Iowa real estate license law and commission rules.

12.2(9) A licensee cannot be the agent for both the buyer or tenant without following Iowa Code section 543B.58(1).

12.2(10) A licensee may work with and establish different types of agency relationships with the same client, in separate transactions. Examples of different agency relationships with the same client in separate transactions include, but are not limited to, the following:

a. A common example includes a licensee acting as a listing or seller's agent selling a property in one transaction and also working with and representing this same person in another transaction as a buyer's agent in the purchase of a different property.

b. A licensee may act as a dual agent in either of the separate transactions, or both, with the written permission of the parties to the specific transaction and if the broker or brokerage has a written company policy that includes disclosed dual agency for in-house transactions or same agent transactions.

c. Regardless of the type of agency relationship provided in each transaction, the licensee complies with the criteria of Iowa Code chapter 543B and this rule in establishing the relationships for each separate transaction.

12.2(11) An agency relationship disclosure is not needed when the licensee is acting solely as a principal and not as an agent for another or when a written communication from the licensee is a solicitation of business.

12.2(12) If the seller, landlord, buyer, or tenant rejects representation, or refuses to sign the agency disclosure document, or refuses to sign acknowledging receipt of the disclosure, the licensee notes that fact and includes the date, place, time, and the names of others in attendance on a copy of the agency disclosure document and obtains other documentation establishing delivery of the disclosure and maintains the written documentation, including but not limited to copies of facsimile, restricted delivery certified mail, and other communications, in the transaction file.

12.2(13) A licensee who is offering real estate brokerage services as an auctioneer makes the written disclosure to the buyer and obtains the acknowledgment of receipt obligated by law and rules, prior to the buyer's entering into a written purchase agreement for the property. For the purposes of this rule, the identification of the successful bidder constitutes the first meaningful contact with a buyer when specific assistance is provided. After the first meaningful contact, the first practical opportunity to make the necessary disclosures to the buyer depends upon the circumstances. While it is not necessary, it is recommended that licensees disclose in all advertisements and flyers that they are licensed agents representing the seller and, prior to crying the auction, announce that they are licensed real estate agents representing the seller.

a. Disclosure under this rule applies only to the day of the auction.

b. If the licensee provides brokerage services prior to the auction, the disclosure is made either orally or in writing prior to or at the time of specific assistance being provided.

12.2(14) The licensee retains a copy of the disclosure form signed by the prospective buyer, seller, landlord

or tenant, or the documentation and copies as obligated in 12.2(12) as follows:

a. If an offer is accepted, the signed or noted copy is retained by the broker in the closed transaction file for a period of five years from the date of the signature or note.

b. If the offer is not accepted, a signed and noted copy is retained with the rejected offer for a period of five years.

12.2(15) Failure of a licensee to comply with this rule is prima facie evidence of a violation of Iowa Code subsection 543B.34(4).

12.2(16) Failure of a licensee to act consistent with disclosure representations made pursuant to this rule is prima facie evidence of a violation of Iowa Code subsection 543B.34(4).

12.2(17) Nothing in this rule affects the validity of title to real property transferred based solely on the reason that any licensee failed to conform to the provisions of this rule.

12.2(18) A sole-proprietor single broker or firm is not obligated to offer or engage in more than one type of brokerage relationship as enumerated in rules 193E—12.3(543B) to 193E—12.5(543B).

12.2(19) The licensee offering brokerage services to a person as a buyer's or tenant's agent, or who is providing brokerage services to a person as a seller's or landlord's agent, discloses in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person before entering into a listing or brokerage agreement with that person.

193E—12.3(543B) Single agent representing a seller or landlord.

12.3(1) *Duty to seller or landlord.* A licensee representing a seller or landlord as an exclusive seller's agent or an exclusive landlord's agent have the following duties and obligations:

- a.* Perform the terms of the written agreement made with the seller or landlord;
- b.* Exercise reasonable skill and care for the seller or landlord;
- c.* Promote the interests of the seller or landlord with the utmost care, integrity, honesty, and loyalty,

including but not limited to the following:

(1) Seeking a price and terms which are acceptable to the seller or landlord, except that the licensee is not obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(2) Presenting all written offers to and from the seller or landlord in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease, unless it is provided for by the brokerage agreement;

(3) Disclosing to the seller or landlord all material adverse facts pursuant to Iowa Code section 543B.56(1);

(4) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the seller's or landlord's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the seller or the landlord that, if disclosed to the other party, could place the seller or landlord at a disadvantage when bargaining;

2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;

3. What the motivating factors are for the client's selling or leasing the property;

4. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;

5. The seller's or landlord's real estate needs;

6. The seller's or landlord's financial information;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all criteria of Iowa Code chapter 543B and all commission rules and regulations;

(9) Complying with any applicable federal, state, or local laws, rules, or ordinances, including fair housing and civil rights statutes and regulations.

12.3(2) *Duty to a buyer or tenant.* A licensee acting as an exclusive seller's or exclusive landlord's agent discloses to any customer all material adverse facts actually known by the licensee pursuant to Iowa Code section 543B.56.

a. The licensee owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or landlord or any independent inspector, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule precludes the obligation of a buyer or tenant from the responsibility of protecting the buyer's or the tenant's own interest by means of, but not limited to, inspecting the physical condition of the property and verifying important information.

c. A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf is an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.

d. A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by performing such acts as preparing offers and conveying those offers to the seller or landlord and providing information and assistance concerning professional services not related to real estate brokerage services.

12.3(3) *Alternative properties.* The licensee may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

193E—12.4(543B) Single agent representing a buyer or tenant.

12.4(1) *Duty to buyer or tenant.* A licensee representing a buyer or tenant as an exclusive buyer's or an exclusive tenant's agent have the same duties and obligations as mentioned in rule 193E—12.3(1)(543B).

- a. Perform the terms of any written agreement made with the client;
- b. Exercise reasonable skill and care for the client;
- c. Promote the interests of the client with the utmost good faith, loyalty, and fidelity, including but not

limited to the following:

(1) Seeking a property at a price and terms which are acceptable to the buyer or tenant, except that the licensee is not obligated to seek other properties while the client is a party to a contract to purchase property, or to a lease or letter of intent to lease, unless it is provided for by the brokerage agreement;

(2) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or letter of intent to lease;

(3) Disclosing to the buyer or tenant material adverse facts concerning the property and the transaction that are actually known by the licensee, pursuant to Iowa Code section 543B.56;

(4) Advising the buyer or tenant to obtain expert advice on material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the buyer's or tenant's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the buyer or the tenant that, if disclosed to the other party, could place the client at a disadvantage when bargaining;
2. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;
3. What the motivating factors are for the party's buying or leasing the property;

4. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;
5. The buyer's or tenant's real estate needs;
6. The buyer's or tenant's financial qualifications;
- (6) Accounting in a timely manner for all money and property received;
- (7) Providing brokerage services to all parties to the transaction honestly and in good faith;
- (8) Complying with all criteria of Iowa Code chapter 543B and all commission rules;
- (9) Complying with any applicable federal, state, or local laws, rules, and ordinances, including fair housing and civil rights statutes and regulations.

12.4(2) Duty to a seller or landlord. A licensee acting as an exclusive buyer's or an exclusive tenant's agent discloses to any customer all material adverse facts actually known by the licensee, pursuant to Iowa Code section 543B.56.

a. The licensee owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord and owes no duty to verify the accuracy or completeness of any statement made by the buyer or tenant or any independent source, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule limits the obligation of a seller or landlord from the responsibility of protecting the seller's or landlord's own interest by means of, but not limited to, verifying information concerning or provided by the buyer or tenant.

c. A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf is a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.

d. A real estate brokerage engaged by a buyer or tenant in a real estate transaction may provide assistance

to an unrepresented seller or landlord by performing such acts as preparing offers and conveying those offers to the buyer or tenant and providing information and assistance concerning professional services not related to real estate brokerage services.

12.4(3) *Competing buyers or tenants.* The licensee may show properties in which the buyer or tenant is interested to other prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage service agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

193E—12.5(543B) Disclosed dual agent.

12.5(1) A brokerage which has a company policy that permits disclosed dual agency for in-house transactions provides a disclosed dual agency consent agreement to the client or prospective client prior to engaging in any activities of a dual agent. If any seller, landlord, buyer, or tenant rejects dual agency, or refuses to sign consent to dual agency, the licensee cannot act as a dual agent. The dual agency consent agreement complies with Iowa law and commission rules including, but not limited to, the criteria to inform the prospective clients that they are not obligated to consent to dual agency representation as provided by 12.5(2).

a. A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent is evidenced by a written agreement pursuant to Iowa law and commission rules.

b. A dual agent is an agent for both the seller and buyer or the landlord and tenant and has the duties and obligations needed for a single agent representing a seller or landlord and for a single agent representing a buyer or tenant, unless otherwise provided for in this rule.

c. A dual agent discloses to the client all material adverse facts concerning the property that are actually known by the licensee, pursuant to Iowa Code section 543B.56.

d. A dual agent cannot disclose to one client confidential information about the other client and preserves a seller's or a landlord's, or a buyer's or a tenant's, confidential information as defined in rule 193E—

2.1(543B), unless disclosure is mandated by law, or failure to disclose such information would constitute fraud or dishonest dealing, or disclosure is authorized by express instruction. A dual agent does not terminate the dual agency relationship by making the disclosures mandatory or permitted by the dual agency consent agreement. Confidential information includes the same information as rule 193E—12.3(1) or rule 193E—12.4(1).:

e. In any transaction, a licensee may withdraw from representing a client who has not consented to a disclosed dual agency at any time prior to the existence of the dual agency, which is prior to discussing any seller's or landlord's property with a potential buyer or tenant and prior to discussing any potential buyer or tenant with a seller or landlord, when both the seller or landlord and the buyer or tenant are represented by and are clients of the licensee.

(1) All withdrawals are made in writing and acknowledged by the separate signatures of the clients.

(2) Such withdrawal does not prejudice the ability of the licensee to continue to represent the other client in the transaction or limit the licensee from representing the client in other transactions not involving a dual agency.

12.5(2) A dual agency consent agreement:

- a.* Fairly and accurately describes the type of representation the licensee will provide each client;
- b.* Contains a statement of the licensee's duties under Iowa Code section 543B.56, subsection 1;
- c.* Contains a statement of the licensee's duties under Iowa Code section 543B.56, subsection 2;
- d.* Informs the clients that representing more than one party to a transaction may present a conflict of interest;
- e.* Informs the clients that they are not obligated to consent to dual agency;
- f.* Provides additional information that the licensee determines is necessary to clarify the licensee's

relationship with each client, including any changes from prior types of representation;

g. Describes the confidential information a dual agent will not disclose to one client about the other client;
and

h. Includes a statement that the clients understand the licensee's duties and consent to the licensee's providing brokerage services to more than one client.

12.5(3) No particular disclosure language is needed. The commission recommends use of the following sample language to satisfy the mandatory disclosure regarding conflict of interest:

Representing more than one party to a transaction can create a conflict of interest since both clients may rely upon the broker's advice and the clients' respective interests may be adverse to each other. Broker will endeavor to be impartial between seller and buyer and will not represent the interest of either the seller or buyer to the exclusion or detriment of the other.

12.5(4) Potential dual agency agreement. A brokerage which has a company policy that permits disclosed dual agency for in-house transactions and that elects to use a potential dual agency agreement provides the agreement to the client or prospective client prior to engaging in any activities of a dual agent. Such consent agreement complies with Iowa law and commission rules.

a. The potential dual agency agreement should be provided to the seller or landlord prior to entering into a listing agreement or a contract for seller or landlord brokerage services.

b. The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant agency agreement or a contract for buyer or tenant brokerage services.

c. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the buyer or tenant prior to the buyer's or tenant's signing an offer to purchase or a rental or lease agreement. The buyer or tenant may accept or reject dual agency at this point in the transaction.

d. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the seller or landlord prior to the seller's or landlord's signing or accepting an offer to purchase or a rental or lease agreement. The seller or landlord may accept or reject dual agency at this point in the transaction.

e. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, the obligated subsequent dual agency consent disclosure is property-specific and complies with Iowa law and commission rules.

193E—12.6(543B) Appointed agents within a brokerage. Iowa Code section 543B.59 authorizes a designated broker to elect to appoint in writing one or more different licensees affiliated with the broker to act as agent to represent exclusively different clients in the same transaction, to the exclusion of all other affiliated licensees within the real estate brokerage. A licensee cannot disclose, except to the licensee's designated broker, information made confidential by request or instructions of the client the licensee is representing or otherwise confidential by statute or rule, except information allowed by this chapter or mandated to be disclosed by law.

12.6(1) The designated broker may want to include in the written company policy some or all of the appointed agents within the brokerage and may want to include the procedure by which the appointment of the agent or agents is made.

12.6(2) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller or leasing agreement with the landlord will represent the seller or landlord as that client's agent. In that scenario, all other licensees affiliated with the designated broker will represent buyers or tenants as their agents in any transactions dealing with the subject property.

12.6(3) If any seller, landlord, buyer, or tenant who is a client of the broker refuses to sign and consent to

the appointed agent within the brokerage appointed by that same broker for the other party to the transaction, then the broker and licensees affiliated with the broker cannot act as an appointed agent for that other party.

193E—12.7(543B) Appointed agent procedures and disclosure.

12.7(1) Prior to entering into a listing or brokerage agreement, a real estate brokerage notifies a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees in accordance with Iowa Code section 543B.59(1). The appointed agent disclosure includes, at a minimum, the following provisions:

- a.* The name of the appointed agent(s);
- b.* A statement that the appointed agent will be representing the client as the client's agent and will owe the client duties as set forth in Iowa Code section 543B.56, subsections 1 and 2;
- c.* A statement that the brokerage may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- d.* A statement that other affiliated licensees may be appointed during the term of the brokerage agreement should the appointed agent not be able to fulfill the terms of the brokerage agreement or as by agreement between the designated broker and the client. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any of the duties owed to the client. At any time of the appointment of the new or additional agents, the designated broker complies with the provisions of this rule; and
- e.* A provision for the client to consent or not consent in writing to the appointment.

12.7(2) Implementation of the appointed agent within a brokerage relationship. Any broker may elect to offer the appointed agent relationship. The broker cannot implement the use of the relationship until such time as the broker has fully complied with all Iowa laws and commission rules.

- a.* The broker cannot, without the written consent of the clients, appoint an affiliated licensee to act as an

appointed agent in any transaction involving a written exclusive single agent or dual agent brokerage agreement that was in effect prior to the broker's implementing the appointed agent relationship.

b. If the client of an appointed agent wants to consider a property on which the broker has a prior existing exclusive single agent or dual agent brokerage agreement, the broker cannot allow the use of the appointed agent without first obtaining the written consent of that particular seller or landlord to the appointed agent relationship.

c. If the written consent of the client to allow the appointed agency relationship is not given or cannot be obtained, the broker refers the client of the appointed agent to another broker for representation at least for the purpose of considering such property.

12.7(3) A designated broker cannot be considered to be a dual agent solely because the designated broker makes an appointment under this rule, except that any licensee who, with prior written consent of all parties, personally represents both the seller and buyer or both the landlord and tenant in a transaction are a dual agent and are needed to comply with the rules governing dual agents.

12.7(4) Appointed agent and designated broker responsibilities.

a. A designated broker appointing an affiliated licensee(s) to act as an agent of a client takes ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.

b. An appointed agent may disclose to the brokerage's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information is treated as such by the designated broker or other specified representative of the broker and is not disclosed unless otherwise obligated by Iowa law and related commission rules or requested or permitted in writing by the client who originally disclosed the confidential information.

c. If a designated broker elects to use the appointed agent within a firm authority set forth in Iowa Code

section 543B.59, and when the affiliated licensee appointed also acts in a supervisory capacity under the designated broker, such as branch managers, sales managers and the like, these appointed licensees may be treated in the same manner as the designated broker for purposes of determining dual agency under Iowa Code section 543B.59, subsection 2, only if the designated broker authorizes and provides for such supervisory positions in the written company policy.

(1) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord in a transaction.

(2) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a buyer or tenant in a transaction.

(3) A licensee in a supervisory capacity that is authorized and appointed to supervise and assist licensees appointed to represent a seller or landlord, or buyer or tenant, exclusively, have the same duties, obligations, and responsibilities as the designated broker.

(4) The use of an authorized appointed agent does not relieve the designated broker of duties, obligations, and responsibilities mandated by law or rules.

12.7(5) Licensee’s duty to designated broker or designee. A licensee keeps the brokerage’s designated broker or that broker’s designee fully informed of all activities conducted on behalf of the brokerage and notifies the designated broker or that broker’s designee of any other activities that might impact on the responsibility of the designated broker or that broker’s designee.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	178

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	109
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ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No
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Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	July 17, 2023	Total Rule Count:	6
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	13	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 13 is an explanation for licensed brokers to properly conduct a trust account. Without this chapter it could potentially be harmful to the public. Brokers need to be directed on earnest money, rents, property management funds and other money they are holding for clients. IREC has a trust account auditor who audits broker's trust accounts according to these rules. We have seen quite a few discipline cases regarding this chapter and the inadequate record keeping of licensees.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process of keeping a proper trust account. It would be harmful to the public without these rules as this is in regards to the public's money.

What are the costs incurred by the public to comply with the rule?

It could be a high cost to the public without these rules.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost to the agency or state is to have a trust account auditor to make sure licensees are abiding by these rules.

Do the costs justify the benefits achieved? Please explain.

Yes. The cost of having an auditor is justified as the potential of the public being harmed is high. These rules and the auditor help the licensees to properly hold trust money.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

All of 13.1 has been updated, removal of restrictive language and duplicative language.
All of 13.2 has been updated, removal of restrictive and duplicative language
13.3 removal of restrictive language
13.4 removal of restrictive language
All of 13.5 removal of restrictive language
13.6 removal of restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 13

TRUST ACCOUNTS AND CLOSINGS

[Prior to 9/4/02, see 193E—Ch 1]

193E—13.1(543B) Trust account. All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson on behalf of the broker's client are deposited in a trust account maintained by the broker in an identified trust account, with the word "trust" in the name of the account, in a federally insured depository institution and, for the purposes of this rule, may be referred to as the "depository."

13.1(1) All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and are deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This includes, but is not limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically

provided for in the written agreement between the broker and the broker's principal.

a. All trust funds are deposited into the trust account by no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained unless otherwise specified in the contract.

b. Money belonging to others cannot be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

c. A broker cannot commingle personal funds in a trust account unless authorized by Iowa Code section 543B.46(4).

The broker ensures that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46 and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker deposits personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

d. Money held in the trust account, which becomes due and payable to the broker, is promptly withdrawn by the broker.

e. The broker cannot use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses are not disbursed directly from the trust account.

13.1(2) As authorized by Iowa Code section 543B.46(1), all interest earned on the trust account is transferred on a calendar quarter basis to the state. The amount to be remitted to the state will be the amount of interest earned less any service charges directly attributable to the criteria of maintaining an interest-bearing account and of remitting the interest to the state. The broker may have the depository remit the interest directly or the broker may remit the interest but, in either case, it is the responsibility of the broker to see that the interest

is remitted.

a. If the interest is remitted by the broker, the broker should use the commission-approved Real Estate Interest Remittance Form and include a copy of the applicable bank statement(s) showing the interest paid and the service charges attributable to maintaining the account.

b. If the interest is remitted by the broker, the broker mails the interest remittance check and mandatory documentation to:

The State of Iowa

c/o Bankers Trust Company

P.O. Box 4686

Des Moines, Iowa 50306

c. The depository should use the name “Iowa Finance Authority” and the federal tax identification number (TIN) 52-1699886 on the 1099 reporting form when reporting interest to the IRS.

d. The depository should send the 1099 reporting form to:

Iowa Finance Authority

2015 Grand Avenue

Des Moines, Iowa 50312

e. If the property management or rental account is interest-bearing, the interest is transferred on a calendar quarter basis to the state unless there is a written agreement paying the interest to the property owner.

f. A broker enters into a written agreement to pay interest to a buyer or seller in a transaction, or to a third party if requested by the parties to the contract and agreed to by the broker, if the client’s trust funds can earn net interest. In determining whether a client can earn net interest on funds placed in trust, the broker takes into consideration all relevant factors including the following:

(1) The amount of interest that the funds would earn during the period in which they are reasonably expected to be deposited;

(2) The cost of establishing and administering an individual interest-bearing trust account in which the interest would be transmitted to the client, including any needed tax forms; and

(3) The capability of the financial institution to calculate and pay interest to individual clients through subaccounting or otherwise.

13.1(3) With disclosure to and the written agreement of all parties, a trust account may bear interest to be disbursed to (1) the buyer or seller involved in a real estate purchase, sale or exchange transaction, or (2) the property owner, if the property management or rental contract contains this specific provision, or (3) as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), or (4) a third party if requested by the parties to the contract and agreed to by the broker. Disbursements of interest on trust funds are subject to all provisions of law that obligates a broker to safeguard and account for the handling of funds of others.

13.1(4) Receipts from property management and rental account transactions may be deposited in a trust account separate from real estate transaction funds. If separately maintained, this account does not need to be an interest-bearing account.

a. The broker provides to the broker's client a complete accounting of all moneys received and disbursed from the trust account(s) not less often than annually.

b. A broker may only utilize a separate property management or rents trust account for those moneys received by a broker pursuant to a written property management or rental agreement.

13.1(5) A broker is needed to open and maintain one or more trust accounts if the broker is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker files with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the

commission to examine and audit the trust account. The form of consent is prescribed by and available from the commission and includes the account names and number and the name and address of the depository.

a. If the broker is not in the practice of depositing trust funds in a trust account, the broker files an affidavit with the commission on a form prescribed by and available from the commission.

b. If trust funds are received by the broker after filing an affidavit, the broker immediately opens a trust account and files the appropriate Consent to Examine and Audit Trust Account form with the commission.

c. As provided by Iowa Code section 543B.46(3), a consent to examine is not necessary for a separate farm business operating account or a separate property management account.

13.1(6) Each broker obligated to maintain a trust account maintains at all times a record of each account, as mandated by these rules, in the place of business, consisting of at least the following:

a. A record called a journal which records in chronological order all receipts and disbursements of moneys in the trust account.

(1) For receipts, the journal for each trust account includes the date, name of depositor, the check number and the amount deposited, and the name of principal or identify the property.

(2) For disbursements, the journal for each trust account includes the date, name of payee, name of principal or identify the property, the check number and the amount disbursed.

(3) The journal provides a means for monthly reconciliation on a written worksheet of the general ledger balance with the bank balance and with the individual ledger accounts to ensure agreement.

b. Real estate sales transactions additionally need an individual ledger account identified by the property or the principal, which records all receipts and disbursements of the transaction and clearly separates the transaction from all others. The individual ledger account includes the date, check number, amount, name of payee or depositor or explanation of activity with a running balance.

c. Property management trust account records additionally include an individual ledger account for each tenant, identifying the tenant's rental unit and security deposit and including all receipts and disbursements together with check number and date. The journal for each account is maintained as an owner's ledger account for all properties owned by each owner showing receipts and disbursements applicable to each property managed.

(1) All disbursements are documented by bids, contracts, invoices or other appropriate written documentation.

(2) The running balance may be determined at the time of monthly reconciliation.

d. Trust account supporting documents include, but are not limited to, the following:

(1) Bank statements;

(2) Canceled checks;

(3) Copies of contracts, listing, sales, rental and leasing;

(4) Closing statements;

(5) Pertinent correspondence; and

(6) Any additional items necessary to verify or explain an entry.

13.1(7) Funds, including interest on trust funds, are only disbursed from the trust account as provided in Iowa Code section 543B.46(1) and by the terms and conditions of the contract or escrow agreement. No funds are disbursed from the trust account prior to the closing, or other than as provided by the terms of the escrow agreement, without the informed written consent of all the parties. In the event of a dispute over the return or forfeiture of an earnest money deposit or the disbursement of an escrow deposit held by a broker, the broker continues to hold the deposit in the trust account until one of the following conditions is met:

a. The broker is in receipt of a written release from all parties to the transaction consenting to the disposition of the deposit or escrow funds; or

b. The broker is in receipt of a final judgment of the court directing the disposition of the deposit or escrow funds; or

c. There is a final decision of a binding alternative dispute resolution process, or mediation directing the disposition of the deposit or escrow funds; or

d. A civil court action is filed by one or more of the parties to determine the disposition of the deposit or escrow funds, at which time the broker may seek court authorization to pay the deposit or escrow funds into court.

13.1(8) No funds are disbursed from the trust account prior to the closing without the informed written consent of all the parties to the transaction as provided in 13.1(7), except in accordance with this rule. Nothing in this rule obligates a broker to remove money from the broker's trust account when the disposition of such money is disputed by the parties to the transaction. The commission will not take disciplinary action against a broker who in good faith disburses trust account moneys pursuant to this rule.

a. In the absence of a pending civil court action or written agreement, it is not grounds for disciplinary action when, upon passage of 30 days from the date of the dispute, a broker disburses the earnest money deposit to a buyer, renter, or lessee in a transaction based upon a good faith decision that a contingency has not been met, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action and the grounds for the decision.

b. In the absence of a pending civil action or written agreement, it is not grounds for disciplinary action when, upon passage of six months from the date of the dispute, a broker disburses the earnest money deposit to a seller or landlord in a transaction based upon a good faith decision that the buyer, renter, or lessee has failed to perform as agreed, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action

and grounds for the decision.

c. . If a buyer or seller, or a landlord or lessee, or a renter demands the return of the earnest money deposit, the broker consults with the other party who may agree or disagree with the return.

13.1(9) Under no circumstances is the broker entitled to withhold any portion of the earnest money when a transaction fails to consummate even if a commission is earned. The earnest money is disposed of as provided in 13.1(7), 13.1(8), or 13.1(10), and the broker pursues any claim for commission or compensation against the broker's client.

13.1(10) Interpleader. Anytime the broker in good faith believes that the parties disputing the return of the deposit will not agree on the disposition of the deposit or file a civil court action to determine the disposition of the deposit, then the broker may elect to file an interpleader action with the appropriate court pursuant to Iowa Rules of Civil Procedure and pay the deposit into court. The broker may, in filing such an interpleader court action:

a. Attempt to claim a part of the deposit pursuant to the listing contract with the seller, if the seller is successful in the suit.

b. Disclaim any part of the deposit and request the court to restrain the buyer and the seller from naming the broker in the civil suit and order them to litigate their claims to the deposit.

13.1(11) A trust account may bear interest to be disbursed to the buyers or sellers or to a third party if requested by the parties to the contract and agreed to by the broker with the written approval of all parties to the contract or to the owner if the trust account is for a property management account and the management contract so specifies, or as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2). The account is a separate account from the account(s) which is to accrue interest to the state. Interest is disbursed to the owner or owners of the funds at the time of settlement of the transaction or as agreed to in the management contract and is properly accounted for on closing statements. A broker does not disburse

interest on trust funds except as provided in 13.1(3) and 13.1(7). Service charges for the account are a business expense of the broker and are not deducted from the proceeds.

13.1(12) Property management account funds may be withdrawn at any time for the purpose of returning the funds to the payee in accordance with the terms of the contract or receipt.

13.1(13) Property management funds may be withdrawn when and if the broker reasonably believes, from evidence available, that the tenant has obtained a rental or lease through information supplied by or on behalf of the broker.

13.1(14) Trust funds that are not traceable to any individual for disbursement from the trust account are unclaimed property. In accordance with Iowa Code chapter 556, after three years unclaimed trust funds are reported and remitted to the Treasurer State of Iowa, Unclaimed Property Division.

[**ARC 7559B**, IAB 2/11/09, effective 3/18/09; **ARC 0410C**, IAB 10/31/12, effective 12/5/12; **ARC 3722C**, IAB 3/28/18, effective 5/2/18]

193E—13.2(543B) Closing transactions. It is mandatory for every broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete detailed statement, showing all of the receipts and disbursements handled by the broker. Also, the broker at the same time delivers to the buyer a complete statement showing all moneys received in the transaction from the buyer and how and for what the same were disbursed.

13.2(1) In the event all funds being held by the broker for a transaction cannot be disbursed at the time of closing, the broker obtains an escrow agreement signed by both parties to the transaction which directs the broker regarding the future disbursement of the funds.

13.2(2) The broker retains all trust account records and a complete file, which includes but is not limited to the records mandated by 13.5(543B), on each transaction for a period of at least five years after the date of the closing. Records mandated by this rule may be retained as an electronic record as provided by 13.5(543B).

13.2(3) The listing broker is responsible for the closing even though the closing may be completed by another licensee.

13.2(4) If the closing transaction is handled through an unlicensed escrow agent and the escrow agent renders a closing statement, the listing broker ensures that funds which the broker has received or paid as part of the transaction are accounted for properly.

13.2(5) In the case of a cooperative sale between brokers, the listing broker may elect to close the transaction or, by prior agreement, authorize the selling broker to close.

a. If the listing broker so elects, the selling broker has the buyer make the earnest money check or money order payable to the listing broker and immediately delivers the earnest money check or money order along with the offer to purchase to the listing broker or listing agent.

b. Unless by prior agreement the listing broker has authorized the selling broker to close, the offer to purchase designates that the earnest money is held in trust by the listing broker.

c. Unless by prior agreement the listing broker has authorized the selling broker to close, when cash is accepted as earnest money by the selling agent, the selling agent deposits the money in the selling broker's trust account in accordance with commission rules, and then immediately transfers the earnest money deposit to the listing broker by issuing a check drawn on the selling broker's trust account.

13.2(6) Any means other than cash or an immediately cashable check are not accepted as earnest money unless that fact is communicated to the seller prior to the acceptance of the offer to purchase, and is stated in the offer to purchase.

13.2(7) Brokers acting as agents for the buyer in a specific real estate transaction have the same criteria for retention of copies as stated in this rule, except that a buyer's agent who is not a party to the listing contract is not obligated to retain a copy of the listing contract or the seller's settlement statement.

13.2(8) Iowa Court Rule. 37.5, limited real estate practice. All Iowa real estate licensees should be aware that

Iowa Court Rule 37.5 authorizes non-lawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this court rule may constitute the unauthorized practice of law.

193E—13.3(543B) Salesperson cannot handle closing. A salesperson cannot handle the closing of any real estate transaction except under the direct supervision or with the consent of the employing broker.

193E—13.4(543B) Consent to return earnest money not necessary. When an offer to purchase is withdrawn or the acceptance is revoked without liability pursuant to Iowa Code chapter 558A, any earnest money deposit is promptly returned to the buyer without delay. The seller's consent and agreement to release the funds is not necessary. A copy of the written revocation or withdrawal is retained with the trust account supporting documents.

193E—13.5(543B) File record keeping. Every broker retains for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; the listing; any offers to purchase; and all correspondence relating to each real estate transaction that the broker has handled and each property managed. The records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives upon request.

13.5(1) Contracts and other documents that have been changed or altered to the point where the language is unreadable and faxed contracts and documents in which the language is unreadable are not acceptable records and are redrafted and signed by the parties.

13.5(2) Copies of unreadable documents are not acceptable as true copies of the originals regardless of the

medium.

13.5(3) Electronic records. The files, records, and other documents mandated by this chapter may be stored in electronic format for convenience and efficiency in a system for electronic record storage, analysis, and retrieval.

a. A record obligated by this chapter may be retained as an electronic record only if the record storage medium can be easily accessed and the records can be readily retrieved and transferred to a legible printed form upon request.

b. The scanning or electronic generation of a record is monitored to ensure that the copy is clear, legible and true before the original is shredded.

c. Once the original record is transferred to the appropriate electronic storage medium consistent with this rule, the commission will no longer need the retention of the record in its original medium. For the purposes of this chapter, electronic records are considered the same as originals.

193E—13.6(543B) Licensee acting as a principal. When a licensee is acting in the capacity of a real estate broker, broker associate or salesperson and is also a principal in the sale, lease, rental or exchange of property owned by the licensee, all payments, rent, or security deposits received from the lessee, renter or buyer are deposited into the broker's trust account. The use of the broker's trust account is not needed if all of the following exist:

1. The sale, rental, or exchange is strictly, clearly and completely a "by owner" transaction and there is not a listing or brokerage agreement;
2. No commission or other compensation is paid to or received by the licensee; and
3. The licensee does not function throughout the transaction in any capacity requiring a real estate license.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed emergency 4/4/03—published 4/30/03, effective 4/4/03]

[Filed 8/16/04, Notice 4/14/04—published 9/15/04, effective 10/20/04]

[Filed 2/26/08, Notice 12/19/07—published 3/26/08, effective 4/30/08]

[Filed ARC 7559B (Notice ARC 7271B, IAB 10/22/08), IAB 2/11/09, effective 3/18/09]

[Filed Without Notice ARC 0410C, IAB 10/31/12, effective 12/5/12]

[Filed ARC 3722C (Notice ARC 3564C, IAB 1/17/18), IAB 3/28/18, effective 5/2/18]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	302
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	104

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No



Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	July 17, 2023	Total Rule Count:	1 with 7 subsections
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	14	Iowa Code Section Authorizing Rule:	543B, 558A
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 14 is an explanation of of seller property condition disclosure. This is an important chapter to potential buyers. A seller needs to disclose any material adverse facts regarding their property. A buyer has the right to know exactly the type of property they are purchasing. This is also important to protect the public. A licensee has not lived in the home so they rely on their client to fully disclose issues with the property. It is the licensee duty to obtain the disclosures from the seller and if they have any known knowledge of the property they need to advise the seller to disclose those items.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process of a seller disclosure. This chapter is very important to the public in purchasing a property. It is also informative to someone selling their home. This could be used for someone who is not utilizing a licensee.

What are the costs incurred by the public to comply with the rule?

Without this chapter a potential buyer “public” could be effected negatively and it could cost them a tremendous amount of money without the disclosures from the seller.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost would include staff to implement and enforce the rules. We do not provide any forms this is a suggestion to people to utilize this information.

Do the costs justify the benefits achieved? Please explain.

Yes, staff is necessary for all chapters to be implemented and enforced for the Commission.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language. However, not many other changes were made as this is a very important chapter to the public.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, this chapter is now updated to reflect removal of restrictive language, outdated and duplicate language has been removed.

All of 14.1-removal of restrictive and duplication language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 14

SELLER PROPERTY CONDITION DISCLOSURE

[Prior to 9/4/02, see 193E—Ch 1]

193E—14.1(543B) Property condition disclosure. ~~criteria~~. The criteria of this chapter applies to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the same as Iowa Code section 558A.1(5) and “agent” means the same as Iowa Code section 558A.1(1).

14.1(1) *Additional disclosure.* Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise mandated by law or contract.

14.1(2) *Licensee responsibilities to seller.* At the time a licensee obtains a listing, the listing licensee obtains a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller delivers the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the seller's making a written offer to sell or the seller's accepting a written offer to buy.

b. The licensee representing a seller attempts to obtain the buyer's signature and date of signature on the statement and provides the seller and the buyer with fully executed copies of the disclosure and maintains a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer's signature, the licensee obtains other documentation establishing delivery of the disclosure and maintains the written documentation in the transaction file.

c. If the transaction closes, the listing broker maintains the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement is delivered to the buyer(s) or the buyer's agent in accordance with Iowa Code section 558A.2(2). If there is more than one buyer, any one buyer or buyer's agent may accept delivery of the executed statement.

14.1(3) *Licensee responsibilities to buyer.* A licensee representing a buyer in a transfer notifies the buyer of the seller's obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when mandated, the licensee notifies the buyer that the buyer may revoke or withdraw the offer and follows Iowa Code section 558A.2(2).

14.1(4) *Inclusion of written reports.* A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by those authorized by Iowa Code section 228A.4(1)"b"

a. The seller identifies the necessary disclosure items which are to be satisfied by the report.

b. If the report is prepared for the specific purpose of satisfying the disclosure criteria, the preparer of the report follows Iowa Code section 558A.4(1)"b".

c. A licensee representing a seller provides the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

14.1(5) *Amended disclosure statement.* A licensee's obligations with respect to any amended disclosure statement are the same as the licensee's obligations with respect to the original disclosure statement. A disclosure statement is amended if authorized by Iowa Code section 558A.3(2).

14.1(6) *Acknowledgment of receipt of disclosure statement by electronic means.* Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement mandated by Iowa Code chapter 558A is not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt includes return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee's agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee's agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message is not deemed acknowledgment of receipt for purposes of this rule.

14.1(7) *Minimum disclosure statement contents for all transfers.* All property disclosure statements, whether or not a licensee assists in the transaction, contains at a minimum the information mandated by the following sample statement. No particular language is necessary in the disclosure statement provided that the necessary disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address:

PURPOSE:

Use this statement to disclose information as mandated by Iowa Code chapter 558A. This law obligates

certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) completes this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (N/A);
4. Please provide information in good faith and make a reasonable effort to ascertain the necessary information. If the necessary information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** are identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes No []
[]

2. Roof: Any known problems? Yes No []
[]

Any known repairs? Yes No []
[]

If yes, date of repairs/replacement: ____/____/____

3. Well and Pump: Any known problems? Yes No []
If N/A Check here [] []

Any known repairs? Yes No []
[]

If yes, date of repairs/replacement: ____/____/____

Any known water tests? Yes No []
[]

If yes, date of last report: ____/____/____

and results:

4. Septic Tanks/Drain Fields: Any known problems? Yes No []
If N/A Check here [] []

Location of tank:

Date tank last cleaned: ____/____/____

5. Sewer System: Any known problems? Yes No []
[]

Any known repairs? Yes No []
[]

If yes, date of repairs/replacement: ____/____/____

6. Heating System(s): Any known problems? Yes No []

[]

Any known repairs? Yes No []

[]

If yes, date of repairs/replacement: ____/____/____

7. Central Cooling System(s): Any known problems? Yes No []

[]

Any known repairs? Yes No []

[]

If yes, date of repairs/replacement: ____/____/____

8. Plumbing System(s): Any known problems? Yes No []

[]

Any known repairs? Yes No []

[]

If yes, date of repairs/replacement: ____/____/____

9. Electrical System(s): Any known problems? Yes No []

[]

Any known repairs? Yes No []

[]

If yes, date of repairs/replacement: ____/____/____

10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes No []
[]

If yes, date(s) of treatment: ____/____/____

Any known structural damage? Yes No []
[]

If yes, date(s) of repairs/replacement: ____/____/____

11. Asbestos: Any known to be present in the structure? Yes No []
[]

If yes, explain:

12. Radon: Any known tests for the presence of radon gas? Yes No []
[]

If yes, date of last report: ____/____/____

and results:

13. Lead-Based Paint: Any known to be present in the structure? Yes No []
[]

14. Flood Plain: Do you know if the property is located in a flood plain? Yes No []
[]

If yes, what is the flood plain designation?

15. Zoning: Do you know the zoning classification of Yes No []

the property?

If yes, what is the zoning classification?

16. Covenants: Is the property subject to restrictive covenants? Yes No

If yes, attach a copy or state where a true, current copy of the covenants can be obtained:

17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes No

Any known “*common areas*” such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner’s Association which has any authority over the property? Yes No

18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes No

19. Structural Damage: Any known structural damage? Yes No

You need to explain any “*YES*” response(s) above. Use the back of this statement or additional sheets as

necessary:

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges that Buyer(s) be provided with the “Iowa Radon Home-Buyers and Sellers Fact Sheet” prepared by the Iowa Department of Public Health.

Seller

Seller

Date ____/____/____

Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the “Iowa Radon Home-Buyers and Sellers Fact Sheet” prepared by the Iowa Department of Public Health.

Buyer

Buyer

Date ____/____/____

Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

[**ARC 7950B**, IAB 7/15/09, effective 8/19/09; **ARC 8285B**, IAB 11/18/09, effective 12/23/09; **ARC 3722C**, IAB 3/28/18, effective 5/2/18]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

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[Editorial change: IAC Supplement 9/10/08]

[Filed ARC 7950B (Notice ARC 7639B, IAB 3/25/09), IAB 7/15/09, effective 8/19/09]

[Filed ARC 8285B (Notice ARC 8057B, IAB 8/26/09), IAB 11/18/09, effective 12/23/09]

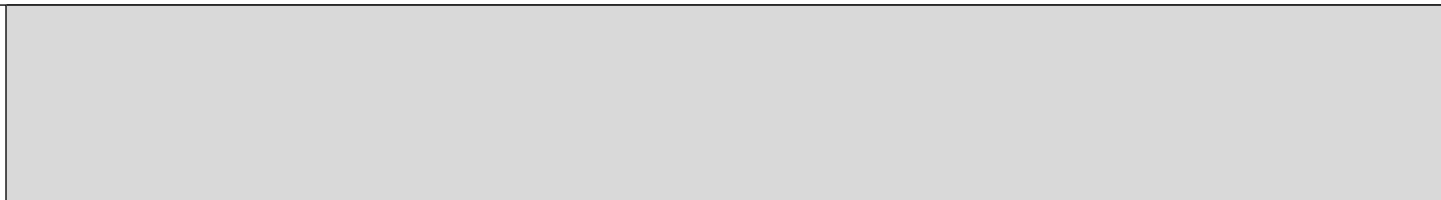
[Filed ARC 3722C (Notice ARC 3564C, IAB 1/17/18), IAB 3/28/18, effective 5/2/18]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	254
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	39

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No



Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	DIAL –Real Estate Commission	Date:	July 18, 2023	Total Rule Count:	1 with 7 subsections
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	15	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 15 is in regards to property management rules that the commission has jurisdiction over. There is quite a bit of unlicensed property management that is happening in the state. The commission is trying to educate and enforce these laws. It is important for the public to be protected when it comes to their rentals or when renting. The commission does not have jurisdiction for tenants as that is 562A. We have seen quite a few complaints regarding property management and the negligence of brokers with their trust account funds.

Is the benefit being achieved? Please provide evidence.

We are trying to achieve the benefits of this chapter. As long as we implement the rules we are achieving the goals of the commission.

What are the costs incurred by the public to comply with the rule?

There is a high cost to the public when property management is not regulated. This has been an issue for the commission for years. We are trying to protect the public from harm with this chapter.

What are the costs to the agency or any other agency to implement/enforce the rule?

Agency costs include staff to implement and enforce the rules.

Do the costs justify the benefits achieved? Please explain.

Yes, commission staff is necessary for investigations, licensing, and regulations.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter is necessary to implement but I have removed any restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

All of 15.1 has been updated to reflect outdated information being removed, and restricted language updated.

15.1

15.1 (1)

15.1 (2)

15.1 (3)

15.1 (4)

15.1 (5)

15.1 (6)

15.1 (7)

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 15

PROPERTY MANAGEMENT

[Prior to 9/4/02, see 193E—Ch 1]

193E—15.1(543B) Property management. A licensee cannot rent or lease real estate, offer to rent or lease real estate, negotiate or offer or agree to negotiate the rental or leasing of real estate, list or offer to list real estate for the leasing or rental of real estate, assist or direct in the negotiation of any transaction calculated or intended to result in the leasing or rental of real estate or show property to prospective renters or lessees of real estate unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

15.1(1) Every property management agreement or other written authorization between a broker and an owner of real estate includes, but is not limited to, the following:

- a.* Proper identification of the property to be managed.
- b.* All terms and conditions under which the property is to be managed and the powers and authority given to the broker by the owner.
- c.* Terms and conditions under which the broker will remit property income to the owner and when the broker will provide periodic written statements of property income and expenses to the owner, which is done no less than annually.
- d.* Which payments of property-related expenses are to be made by the broker to third parties.
- e.* Amount of fee or commission to be paid to the broker and when it will be paid.
- f.* Amount of security deposits and prepaid rents to be held by the broker or the owner.
- g.* Effective date of the agreement.
- h.* Terms and conditions for termination of the property management agreement by the broker or the owner of the property.
- i.* Signatures of the broker and owner or the owner's authorized agent.

15.1(2) The licensee gives the owner or the owner's authorized agent a legible copy of every written property management agreement or written authorization at the time the signature of the owner is obtained, and the licensee's broker retains a copy.

15.1(3) A licensee who is managing the leasing or rental of real estate may act as an agent in the sale or exchange of that real estate only if the property management agreement clearly grants the specific authorization and contains all of the necessary elements for a listing as set forth in rule 193E—11.1(543B) or if a separate listing agreement is secured.

15.1(4) The broker deposits all funds received on behalf of the owner, by no later than five banking days

after receipt of the funds, into a trust account maintained by the broker, under the broker's control and in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

15.1(5) If the property management agreement is terminated or transferred for any reason, the property manager:

a. Terminates the management activities of the property as provided in the agreement and except as otherwise provided by the agreement;

b. Notifies the owner and any tenants of the property of the termination;

c. Provides the owner, not later than 30 days after the effective date of the termination, with any unobligated funds due the owner under the agreement and not later than 60 days after the effective date of the termination, provides the owner with a final accounting of the owner's ledger account, the amount of any obligated funds held in the property manager's client trust account under the agreement, a statement that explains why obligated funds are being held by the property manager and a statement of when and to whom the obligated funds will be disbursed by the property manager;

d. May disburse any unobligated funds only to the owner or, with the proper written authorization of the owner, to another property manager designated in writing by the owner;

e. Immediately notifies each tenant that the conditionally refundable deposit will be transferred to the owner or to a new property manager and, at the same time, provides the name and address of the owner or the new property manager to whom these deposits will be transferred.

15.1(6) If any of the unobligated funds held by the property manager under the terminated agreement represent tenants' conditionally refundable deposits received from current tenants, the property manager:

a. Cannot expend any tenant's conditionally refundable deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreements, and

b. If any tenant terminates tenancy at the same time as or prior to the termination of the management of the

rented or leased property, the licensee completes any final accounting, inspection or other procedure obligated by the tenant's rental or lease agreement, by the Uniform Residential Landlord and Tenant Law, Mobile Home Parks Residential Landlord and Tenant Law, or by the property management agreement, unless the owner directs otherwise in writing.

15.1(7) Financial dealings under a property management agreement are conducted subject to the following:

a. A check is not issued or presented for payment prior to sufficient funds being in the owner's account to cover the check.

b. Transfers of funds between two or more accounts maintained for the same owner may be made if proper entries are made on the ledgers of the accounts affected and the broker maintains the specific written authorization of the owner.

Transfers of funds between an individual owner's accounts are done by writing billings and receipts debiting and crediting the appropriate accounts. Transfers are not done by ledger entries alone.

c. The broker cannot withdraw, pay or transfer money from the owner's account in excess of the remaining credit balance at the time of withdrawal, payment or transfer.

d. Management fees are withdrawn from the owner's account at least once a month unless the agreement provides otherwise. The fees are identified by property name or account number for which the fees were earned and withdrawn by the broker and deposited into the broker's business operating account. Fees are not paid directly from the owner's trust account to the broker.

e. Conditionally refundable deposits are placed in a trust account until refund is made or until all or a portion of the deposit accrues to the owner under the tenant's agreement.

If refundable deposits are not maintained in a separate trust account, the running balance of the account does not, at any time, go below the total of the refundable deposits being held in the account.

f. The total of balances of the individual property management accounts of the broker equals the balance

shown on the journal, the account ledgers, and the reconciled bank balance of the broker.

All accounts and records are in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

g. Except as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), if refundable deposits and funds are received from others pursuant to a property management agreement, deposited in an interest-bearing trust account, and there is not a separate written agreement to pay the interest earned to the owner or tenant, the interest is paid to the state pursuant to Iowa Code section 543B.46. The property manager does not receive or benefit from the interest.

The written approval agreement is signed by each party having an interest in the funds, fully disclosing how the funds are to be handled by the property manager, who will benefit from the interest earnings, how and when interest earnings will be paid and any limitations that may be provided for on the withdrawal of the funds deposited in the interest-bearing trust account.

This rule is intended to implement Iowa Code chapters 17A, 272C, and 543B.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	30
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	26

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES? No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	July 20, 2023	Total Rule Count:	11
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	16	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 16 establishes education and continuing education requirements for initial and renewal licensing. This chapter starts with definitions to explain any type of words that the commission may use for the public to understand. This chapter is helpful for everyone, including the public, licensees, potential licensees, instructors, schools and staff. I did check with surrounding states on their education requirements and we are all fairly comparable. South Dakota and Illinois have more types of licenses available and require more education. Nebraska requires a little less education but they require renewal more often. I also checked with Missouri and Minnesota all is comparable, nothing is exactly the same but comparable. I believe our education for continuing education and prelicense is sufficient and should not be reduced. It is important for a real estate agent who is dealing with the public and one of their biggest investments to be educated and continue to educate themselves with laws, ethics and keeping up with the ever-changing business.

Please Note: I have submitted a state comparison chart on a separate document. It is uploaded.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter publicly outlines the education requirements for licensees. This chapter is used frequently to address inquiries. This chapter is cited in audits, a crucial function to ensuring consumer safety with major financial decisions. I utilize this chapter during audits, questions to schools or instructors along with when licensees or potential licensees call for information.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193E.16. Licensees may incur costs related to initial and continued education requirements of the licensees. renewal licensing fees, and responsibilities of the licensee. **education.**

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the professions as directed in Iowa Code, staff play a critical role in issuing licenses, and conducting investigations and audits. This work is done with a focus on protecting the safety of the public who receive services from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes, there were a number of opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

16.1 Definitions are now updated to remove restrictive language along with duplicate information being removed

16.2 (1) Restrictive language updated to reflect softer language

16.3 (1) Removal of restrictive language

16.4 Removal of restrictive language

16.5 Removal of restrictive language

16.6 Removal of restrictive language

16.7 Removal of restrictive language

16.8 Removal of restrictive language

16.9 Removal of restrictive language

16.10 Removal of restrictive language

16.11 Removal of restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 16

PRELICENSE EDUCATION AND CONTINUING EDUCATION

[Prior to 9/4/02, see 193E—Ch 3]

193E—16.1(543B) Definitions. For the purpose of these rules, the following definitions apply:

“*Affirmative marketing*” means the entire scope of social laws and ethics that are concerned with civil rights as they apply especially to housing and to the activities of real estate licensees.

“*Approved program, course, or activity*” means a continuing education program, course, or activity meeting the standards set forth in these rules which has received advance approval by the commission pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the commission to conduct continuing education activities pursuant to these rules.

“*Broker*” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“*Commission*” means the real estate commission.

“*Continuing education*” means education needed as a condition to license renewal.

“*Credit hour*” means the value assigned by the commission to a prelicense or continuing education program, course, or activity.

“*Distance learning*” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition. Also, referred to as online learning.

“*Guest speaker*” means an individual who teaches a real estate education course on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter the individual proposes to teach.

“*Hour*” means 50 minutes of instruction.

“*Inactive license*” means the same as Iowa Code section 543B.5(12).

“*Licensee*” means the same as Iowa Code section 543B.5(13).

“*Live instruction*” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks.

“*Preliminary course*” means instruction consisting of one or more courses meeting the criteria of Iowa Code section 543B.15.

“*Salesperson*” means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(3).

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.2(543B) Salesperson prelicense criteria.

16.2(1) Mandatory course of study.

a. The mandatory course of study for the salesperson licensing examination consists of 60 live instruction or distance/online learning hours of real estate principles and practices to comply with the criteria of Iowa Code section 543B.15. The curriculum includes, but is not limited to, the following subjects:

Introduction to Real Estate and Iowa License Law 12 hours

Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing 12 hours

Contracts, Agency and Antitrust 12 hours

Valuation, Finance and Real Estate Math 12 hours

Property Management/Leasing, Fair Housing, Environmental Risks

and Health Issues

12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license also provides evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. All the necessary education are completed during the 12 months prior to the date the application is postmarked or received.

16.2(2) Completion of prelicense education. Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

16.2(3) Substitution of courses. Written requests for substitution of the salesperson prelicense education courses specified in 16.2(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.2(1). Courses completed more than 12 months prior to commission consideration for approval does not qualify for substitution.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.3(543B) Broker prelicense education criteria.

16.3(1) Mandatory course of study. The mandatory course of study to take the broker examination consists of Iowa Code section 543B.15(7). Approved courses include the following subjects:

Contract Law and Contract Writing 6 hours

Iowa Real Estate Trust Accounts 6 hours

Principles of Appraising and Market Analysis 6 hours

Real Estate Law and Agency Law 6 hours

Real Estate Finance 6 hours

Federal and State Laws Affecting Iowa Practice 6 hours

Real Estate Office Organization, Administration and Human Resources 12 hours

Real Estate Technology and Data Security 6 hours

Ethics and Safety Issues for Brokers 6 hours

16.3(2) *Completion of prelicense education.* Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

16.3(3) *Substitution of courses.* Written requests for substitution of the broker prelicense education courses specified in 16.3(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.3(1). Any course completed more than 24 months prior to commission consideration for approval does not qualify for substitution.

[**ARC 3500C**, IAB 12/6/17, effective 1/10/18; **ARC 6040C**, IAB 11/17/21, effective 12/22/21]

193E—16.4(543B) Continuing education criteria.

16.4(1) All individual real estate licenses are issued for three-year terms, counting the remaining portion of the year of issue as a full year. All individual licenses expire on December 31 of the third year of the license term.

16.4(2) As a criteria of license renewal in an active status, each real estate licensee completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license. Approved courses in the following subjects are completed to renew a license to active status:

Law Update 8 hours

Ethics 4 hours

Electives

24 hours

16.4(3) During each three-year renewal period a course may be taken for credit only once. A course may be repeated for credit only if the course numbers and instructors are different.

16.4(4) A maximum of 24 hours of continuing education may be taken by distance/online learning each three-year renewal period.

16.4(5) A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests need to meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

16.4(6) In addition to courses approved directly by the commission, the following will be deemed acceptable as continuing education:

a. Credits earned in a state which has a continuing education criteria for renewal of a license if the course is approved by the real estate licensing board of that state for credit for renewal. However, state-specific courses are not acceptable.

b. Courses sponsored by the National Association of Realtors (NAR) or its affiliates.

[**ARC 7972B**, IAB 7/29/09, effective 9/2/09; **ARC 3500C**, IAB 12/6/17, effective 1/10/18]

193E—16.5(543B) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 certifies that the number of hours of continuing education needed to renew a license was completed as described in 193E—16.4(543B).

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It is the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation is retained by the licensee for a period of three years after the effective date of the license renewal.

16.5(2) It will not be acceptable for a licensee to include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously granted.

16.5(3) Failure to provide necessary evidence of completion of claimed education within 30 days of the written notice from the commission results in the licensee's being placed on inactive status. Prior to activating a license that has been placed on inactive status pursuant to this provision, the licensee submits to the commission satisfactory evidence that all necessary continuing education has been completed.

16.5(4) Filing a false affirmation is prima facie evidence of a violation of Iowa Code section 543B.29(1).
[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.6(543B) Reactivating an inactive license. A license may be renewed without the necessary continuing education, but it is only renewed to an inactive status. Prior to reactivating a license that has been issued inactive due to failure to submit evidence of continuing education, the licensee submits evidence that all deficient continuing education hours have been completed. The maximum continuing education hours cannot exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.

193E—16.7(543B) Full-time attendance. Successful completion of continuing education needs full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early does not receive a certificate.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.8(543B) Education criteria for out-of-state licensees. Subrule 16.4(2) applies to every Iowa real estate licensee unless exempted by Iowa Code section 272C.2(5).

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.9(543B) Examination as a substitute for continuing education.

16.9(1) A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator.

a. If the salesperson takes and passes the salesperson examination within the six months immediately preceding the expiration of the license, the salesperson examination score report may be substituted for the necessary hours of continuing education credit for the current license term and will satisfy all previous deficiencies.

b. A salesperson who is otherwise qualified to be a broker and who passes the broker licensing examination is not needed to furnish evidence of credit for continuing education earned as a salesperson.

16.9(2) A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the necessary hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.10(543B) Use of prelicense courses as continuing education.

16.10(1) Salespersons and brokers may take up to 24 hours of the salesperson prelicense courses specified in 16.2(1) as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education criteria of the first renewal term.

16.10(2) Broker prelicense courses taken by a salesperson may be applied as continuing education for renewal of the salesperson license and also may be used as prelicense credit to qualify for a broker license.

16.10(3) A broker may take broker prelicense courses as continuing education, but a newly licensed broker cannot use as continuing education credits from the prelicense courses taken to qualify for the broker license.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—16.11(543B) Requests for prior approval or postapproval of a course(s). A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission approves or denies the application in writing within 14 days of receipt of the application.

16.11(1) The application for prior approval of a course or an activity includes the following information:

1. School or organization or person conducting the activity.
2. Location of the activity.
3. Title and brief description of the activity or title and course outline.
4. Credit hours requested.
5. Date of the activity.
6. Principal instructor(s).

16.11(2) The application for postapproval of a course or an activity includes the following information:

1. School, firm, organization or person conducting the activity.
2. Location of the activity.
3. Title, description of activity, and course outline.
4. Credit hours requested for approval.
5. Date of the activity.
6. Principal instructor(s).
7. Verification of attendance.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

[Filed 7/22/76, Notice 5/31/76—published 8/9/76, effective 9/13/76]

[Filed 6/8/78, Notice 5/3/78—published 6/28/78, effective 8/2/78]

[Filed 10/10/80, Notice 8/20/80—published 10/29/80, effective 12/3/80]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed emergency 5/2/85—published 5/22/85, effective 5/2/85]

[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 10/16/85]

[Filed 3/21/86, Notice 12/18/85—published 4/9/86, effective 5/15/86]

[Filed without Notice 5/30/86—published 6/18/86, effective 7/23/86]

[Filed 5/26/88, Notice 3/9/88—published 6/15/88, effective 7/20/88]

[Filed 12/22/89, Notice 10/18/89—published 1/10/90, effective 2/14/90]

[Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]¹

[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]

[Filed 9/23/93, Notices 5/26/93, 8/4/93—published 10/13/93, effective 12/1/93]

[Filed 7/29/94, Notice 5/25/94—published 8/17/94, effective 9/21/94]

[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95][◇]

[Filed 6/14/96, Notice 4/10/96—published 7/3/96, effective 8/7/96]

[Filed 6/13/97, Notice 4/9/97—published 7/2/97, effective 8/6/97]

[Filed 9/29/99, Notice 8/11/99—published 10/20/99, effective 11/24/99]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 5/7/04, Notice 2/18/04—published 5/26/04, effective 6/30/04]

[Filed 5/30/07, Notice 4/25/07—published 6/20/07, effective 7/25/07]

[Filed 10/14/08, Notice 7/30/08—published 11/5/08, effective 12/10/08]

[Filed 12/22/08, Notice 8/27/08—published 1/14/09, effective 2/18/09]

[Filed ARC 7972B (Notice ARC 7638B, IAB 3/25/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 3500C (Notice ARC 3154C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

◇ Two or more ARCs

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	200
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	52

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?



Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	July 31, 2023	Total Rule Count:	12
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	17	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@dia.iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 17 are rules regarding schools, courses, and instructors. This is helpful for anyone who wants to teach a course, become a teacher or start a school. IREC does not charge any fees for any of these approvals/applications. We work closely with Iowa College Aid who does the approval of schools. Once a school is approved by College Aid, the school submits an application to IREC for approval. Once a school is approved, course applications along with instructor applications can be submitted directly to IREC. We have streamlined this process to be a fairly simple process. These rules help keep all school certificates the same. They help instructors put together a course outline and understand what type of courses are approved. It is also important to note that the Commission does not charge fees for any of our school, course or instructor applications. Many states do charge fees for this type of application.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to the public, to licensees and to schools and instructors. Our education is important to IREC as this is the only schooling requirement to become a licensee. A college degree is not necessary so we work diligently to come up with course outlines that are going to be beneficial to our licensees and protecting the public.

What are the costs incurred by the public to comply with the rule?

No direct costs to the public for this chapter and compliance. We do not charge for any of these approval applications.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency cost is staff. The Commission staff includes an Education Director to do audits, course, school and instructor approvals.

Do the costs justify the benefits achieved? Please explain.

Yes, right now I am the education director and the executive officer for the Commission. In years past, we have employed both with good reason. We decided not to fill the position once we learned of the merge to DIAL.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

I am removing restrictive language in several parts of this chapter.

17.1

17.2 (4)

17.3(1)

17.5(1)

17.5(2)

17.6(3)

17.8

17.9

17.10

17.11

17.12

RULES PROPOSED FOR REPEAL (list rule number[s]):

17.2 (2) – Unnecessary information

17.2 (3) – Unnecessary Information

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 17

APPROVAL OF SCHOOLS, COURSES AND INSTRUCTORS

[Prior to 9/4/02, see 193E—3.5(543B)]

193E—17.1(543B) Administrative criteria for schools, courses and instructors. All schools, courses and instructors of prelicense and continuing education receive advance approval of the commission.

17.1(1) Schools, courses and instructors are approved on forms prescribed by the commission for 24-month periods, including the month of approval. Approval is obtained for each course that an instructor proposes to teach.

17.1(2) A course outline and all necessary forms are submitted for approval at least 30 days prior to the first offering of the program, course or activity.

17.1(3) Evidence of compliance with or exemption from Iowa Code sections 714.18 to 714.25 is furnished to the commission.

17.1(4) Potential participants of all approved courses are clearly informed of the hours to be credited,

policies concerning registration, payment of fees, refunds and attendance criteria.

17.1(5) School staff and instructors allow access to any classes conducted to any member of the commission or its duly appointed representatives.

17.1(6) No part of any approved course is used to advertise or solicit orally or in writing any product or service.

17.1(7) The school shows that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

17.1(8) School staff and instructors are available during normal business hours to answer student questions and provide assistance as necessary.

17.1(9) The commission may at any time evaluate an approved school or instructor. If the commission finds there is a basis for consideration of revocation of the approval of the school or the instructor, the commission gives notice by ordinary mail or email to the coordinator of that school or to the instructor of a hearing on the possible revocation at least 20 days prior to the hearing.

17.1(10) The commission may deny or withdraw approval of a program, course, or activity, but the decision to deny or withdraw approval may be appealed within 20 days of the date of mailing the notice of denial or withdrawal.

17.1(11) Each application for approval designates an individual as coordinator for the school and is responsible for its operation, who is also the contact for the commission. The coordinator is responsible for complying with the commission's rules relating to schools and for submitting reports and information-if needed by the commission.

17.1(12) An approved school cannot apply to itself either as part of its name or in any other manner the designation of "college" or "university" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed for colleges and universities unless the school, in fact, meets those standards and qualifications.

17.1(13) Advertising and prospectus information. No approved school provides any information to the public or to prospective students that is misleading.

17.1(14) Maximum hours of instruction. There is no more than eight classroom hours in any single day of instruction.

17.1(15) Each approved school establishes and maintains for each student a complete, accurate and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. The records are maintained for a period of not less than five years. The commission assigns a number to each approved school and assigns a number to each approved program, course or activity. The approved school includes these reference numbers in correspondence with the commission and includes these numbers on certificates of attendance issued by the approved school.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—17.2(543B) Certificates of attendance.

17.2(1) Each approved school under rule 193E—17.1(543B) provides an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate contains the

following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Instructors name;
- g. Signature of coordinator or other person authorized by the commission; and
- h. A notation as to whether credit hours are to be used as distance learning or as live instruction.

17.2(2) An attendance certificate is not issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity is completed in its entirety. A student who arrives late, leaves during class or leaves early does not receive an attendance certificate.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—17.3(543B) Instructors taking license examinations for auditing purposes.

17.3(1) Instructors who take the salesperson or broker examination for auditing purposes first obtain written consent from the commission.

17.3(2) Any instructor who wishes to retake an examination for auditing purposes may be granted permission after 12 months have passed.

193E—17.4(543B) Continuing education credit for instructors.

17.4(1) Commission-approved instructors may receive up to six hours of continuing education credit toward renewal of a real estate license for verified attendance at an instructor development workshop approved by the commission. The instructor may use continuing education credit only once in each three-year renewal period.

17.4(2) An instructor may receive continuing education credit for approved education courses that the instructor teaches, but not more than six hours of credit in any three-year license renewal period.

193E—17.5(543B) Acceptable course topics.

17.5(1) The commission will consider courses in the following areas to be acceptable for approval:

- a. Real estate ethics;
- b. Legislative issues that influence real estate practice, including both pending and recent legislation;
- c. The administration of licensing provisions of real estate law and rules, including compliance and regulatory practices;

- d.* Real estate financing, including mortgages and other financing techniques;
- e.* Real estate market analysis and evaluation, including site evaluations, market data, and feasibility studies;
- f.* Real estate brokerage administration, including office management, trust accounts, and employee contracts;
- g.* Real estate mathematics;
- h.* Real property management, including leasing agreements, accounting procedures, and management contracts;
- i.* Real property exchange;
- j.* Land use planning and zoning;
- k.* Real estate securities and syndications;
- l.* Estate building and portfolio management;
- m.* Accounting and taxation as applied to real property;
- n.* Land development;
- o.* Market analysis;
- p.* Real estate market procedures; and
- q.* Technology and the practice of real estate.
- r.* Safety
- s.* Fair housing
- t.* Diversity, Equity and Inclusion

17.5(2) Other course topics. A course topic may be approved if it is determined that it includes such facts, concepts and current information about which licensees are knowledgeable to conduct real estate negotiations and transactions and better protect client, customer and public interest. The same criteria will be used to evaluate courses that do not otherwise qualify under rule 193E—17.5(543B).

[ARC 0750C, IAB 5/29/13, effective 7/3/13]

193E—17.6(543B) Nonqualifying courses. The following course offerings do not qualify as continuing education:

17.6(1) Courses of instruction designed to prepare a student for passing the real estate salesperson examination;

17.6(2) Sales promotion or other meetings held in conjunction with a licensee's general business;

17.6(3) A course certified by the use of a challenge examination. All students complete the necessary number of classroom hours to receive certification;

17.6(4) Meetings which are a normal part of in-house staff or employee training;

17.6(5) Orientation courses for licensees, such as those offered through local real estate boards.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—17.7(543B) Standards for approval of courses of instruction. The commission may approve live classroom instruction, distance education programs and paper and pencil home-study courses, subject to the following conditions:

17.7(1) The course pertains to real estate topics that are integrally related to the real estate industry; and

17.7(2) The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and

17.7(3) The course qualifies for at least one credit hour.

193E—17.8(543B) Responsibilities of instructors and course developers.

17.8(1) Instructors are competent in the subject matter and skilled in the use of appropriate teaching methods that have been proven effective through educational research and development.

17.8(2) Course content and materials are accurate and consistent with currently accepted standards relating to the program's subject matter.

17.8(3) Instructor and student materials are updated no later than 30 days after the effective date of a change in standards, laws or rules. Course content will not be considered current and up-to-date unless the new standards have been incorporated into the course or the instructor informs the participants of the new standards.

17.8(4) Instructors attend workshops or instructional programs, as reasonably requested by the commission, to ensure that effective teaching techniques are used and current, relevant and accurate information is taught.

17.8(5) All courses have an appropriate means of written evaluation by the participants. Evaluations include but are not limited to relevance of material, effectiveness of presentation and course content.

193E—17.9(543B) Standards for approval of classroom courses.

17.9(1) The commission may approve live classroom courses, subject to the following criteria.

17.9(2) The course application is accompanied by a comprehensive course outline that includes:

a. Description of course.

b. Purpose of course.

c. Level of difficulty.

d. Detailed learning objectives for each major topic that specify the level of knowledge or competency

the student should demonstrate upon completing the course.

e. Description of the instructional methods utilized to accomplish the learning objectives.

f. Copies of all instructor and student course materials.

g. Course examination(s) or the diagnostic assessment method(s) utilized to achieve the course learning objectives, when applicable.

h. A description of the plan in place to periodically review course material with regard to changing federal and state statutes.

i. A statement of any attendance make-up policy that the school has in place.

193E—17.10(543B) Standards for approval of distance learning courses. The commission may approve distance learning courses, subject to the following criteria:

17.10(1) The provider's purpose or mission statement is available to the public.

17.10(2) The course outline includes clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.

17.10(3) The course content is accurate and up-to-date. The provider describes the plan in place to periodically review course material with regard to changing federal and state statutes.

17.10(4) The course is designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

a. Students completing distance learning continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

b. A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.10(5) The provider shows that qualified individuals are involved in the design of the course.

17.10(6) The provider lists individuals who provide technical support to students and state the specific times when support is available.

17.10(7) A manual is provided to each registered student. It includes, but is not limited to, faculty contact information, student assignments and course criteria, broadcast schedules, testing information, passing scores, resource information, fee schedule and refund policy.

17.10(8) The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

17.10(9) The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

17.10(10) Courses submitted for approval are sufficient in scope and content to justify the hours

requested by the provider.

17.10(11) Courses that have obtained approval from the Association of Real Estate License Law Officials (ARELLO) are automatically approved in Iowa.

17.10(12) All computer-based continuing education and prelicense courses are completed within six months of the date of purchase.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—17.11(543B) Standards for approval of paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following criteria:

17.11(1) Courses are arranged in chapter format and include a table of contents.

17.11(2) Overview statements that preview the content of the chapter are included for each chapter.

17.11(3) Courses are designed to ensure that student progress is evaluated at appropriate intervals. The assessment process measures what each student has learned and not learned at regular intervals throughout each module of the course. The student completes and returns quizzes to the provider to receive credit for the course.

17.11(4) Students completing paper and pencil home-study continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

17.11(5) A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.11(6) A licensee has six months from the date of purchase to complete all quizzes and assignments and to pass the final examination.

17.11(7) The provider includes information that clearly informs the licensee of the course completion deadline, passing score needed, chapter quiz completion criteria and any other relevant information regarding the course.

17.11(8) The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

17.11(9) The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

17.11(10) The provider is available to answer student questions or provide assistance as necessary during normal business hours.

17.11(11) Courses submitted for approval are sufficient in scope and content to justify the hours requested by the provider.

[ARC 3500C, IAB 12/6/17, effective 1/10/18]

193E—17.12(543B) Qualifying as an instructor.

17.12(1) Individuals may be approved to teach prelicense and continuing education when they have shown proof of attendance of six hours at an instructor development workshop approved by the commission within 12 months preceding approval and have met the instructor qualification criteria.

17.12(2) Guest speakers and individuals currently certified by a nationally recognized organization, such as a DREI, that has similar instructor standards are exempt, with prior approval of the commission, from the instructor qualification criteria and the instructor development workshop criteria.

17.12(3) An applicant may be approved as an instructor when it is determined that the applicant evidences the ability to teach and communicate and possesses in-depth knowledge of the subject matter to be taught.

a. The applicant demonstrates the ability to teach by meeting at least one of the following criteria:

(1) Holds a bachelor's degree or higher in education from an accredited college (copy(ies) of transcript(s) to be attached); or

(2) Holds a current teaching credential or certificate in any field (copy to be attached); or

(3) Holds a certificate of completion from a real estate instructor institute, workshop or school approved by the real estate commission and has experience in the area of instruction (specific teaching experiences to be detailed); or

(4) Holds a full-time current appointment to the faculty of an accredited college; or

(5) Holds a current teaching designation from an organization approved by the real estate commission (evidence to be attached).

b. The applicant demonstrates in-depth knowledge of the subject matter by meeting at least one of the following criteria:

(1) Holds a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the applicant proposes to teach, such as business, economics, accounting, real estate or finance (copy of transcript to be attached); or

(2) Holds a bachelor's degree or higher from an accredited college and five years of real estate experience directly related to the subject matter of the course the applicant proposes to teach (copy of transcript to be attached and documentation to explain how applicant's experience is directly related to the subject matter the applicant proposes to teach); or

(3) Be a licensed attorney in practice for at least three years in an area directly related to the subject matter of the course the applicant proposes to teach; or

(4) Be a highly qualified professional with a generally recognized professional designation such as, but not limited to, FLI, MAI, SIOR, SREA, CRB, CRS, CPM, but not including GRI, and two years of education from a postsecondary institution (evidence of both to be attached); or

(5) Have extensive instructional background in real estate education and experience in real estate as evidenced by a valid broker's license or five years of active real estate experience as a salesperson (evidence to be provided). In addition, three recently written letters of recommendation that attest to the applicant's in-depth knowledge combined with the ability to teach and communicate the subject the applicant proposes to

teach; or

(6) Other, as the commission may determine.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 11/18/08, Notice 8/27/08—published 12/17/08, effective 1/21/09]

[Filed 12/22/08, Notice 8/27/08—published 1/14/09, effective 2/18/09]

[Filed ARC 0750C (Notice ARC 0628C, IAB 3/6/13), IAB 5/29/13, effective 7/3/13]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	107
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	81

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	July 31, 2023	Total Rule Count:	15
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	18	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 18 is an explanation of how the Commission handles investigations and complaints. This chapter is very informative to the public and licensees. It is important for all parties to understand our process. It also explains discipline and what the Commission has the right to impose. The commission receives around 300-400 complaints per year. This chapter is necessary and does several reasons the Commission can impose discipline. We receive quite a few complaint inquires asking what discipline can be against a licensee, if we can recover losses, etc..This chapter helps us to refer the public to so they understand the processes.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process to everyone. It is informative for the public to understand along with licensees to understand cooperation with Commission staff is important. Commission staff takes a quite a few calls asking about what can happen if someone submits a complaint, what can happen if a licensee is found guilty from a submission of a complaint. I utilize 18.2 (7), quite often as licensees will not respond to my consent orders, audits or complaint inquires. I did not make many changes to this chapter as I feel it is all very important information. I did remove restrictive language.

What are the costs incurred by the public to comply with the rule?

No direct costs to the public to have this chapter. However, without this chapter, the public can be severely harmed.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency include staff salaries and Commission members to attend investigative meetings, hearings and commission meetings.

Do the costs justify the benefits achieved? Please explain.

Yes. The Commission itself is necessary along with the Commission staff to implement the rules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

I only made changes to restrictive language and outdated language.

18.5

18.6

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18.14

18.15

RULES PROPOSED FOR REPEAL (list rule number[s]):

No full removal of any rules. Just restrictive language updated.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 18

INVESTIGATIONS AND DISCIPLINARY PROCEDURES

[Prior to 9/4/02, see 193E—Ch 4]

193E—18.1(17A,272C,543B) Disciplinary and investigative authority. The commission is empowered to administer Iowa Code chapters 17A, 272C, and 543B and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals for the performance of real estate services within this state or for clients in this state. To perform these functions, the commission is broadly vested with authority, pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6, 272C.10, 543B.9, 543B.29, 543B.34 to 543B.41, and 543B.61, to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline.

193E—18.2(17A,272C,543B) Grounds for discipline. The commission may initiate disciplinary action against a licensee on any of the following grounds:

1. All grounds set forth in Iowa Code sections 543B.29, 543B.34 and 543B.61.
2. A violation of the rules of professional and business conduct described in 193E—Chapters 6 to 8, 10 to 15, and 19.
3. Failure to comply with an order of the commission imposing discipline.

4. Violation of Iowa Code sections 272C.3(2) and 272C.10.

5. Continuing to practice real estate with an expired or inactive license, or without satisfying the continuing education mandated by 193E—Chapter 16 or the errors and omissions insurance mandated by 193E—Chapter 19.

6. Knowingly aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is a ground for discipline under this rule or otherwise knowingly aiding or abetting the unlicensed practice of real estate in Iowa.

7. Failure to fully cooperate with a licensee disciplinary investigation, including failure to respond to a commission inquiry within 14 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the commission office.

8. A violation of one or more of the acts or omissions upon which civil penalties may be imposed, as described in 18.14(5).

193E—18.3(17A,272C,543B) Initiation of disciplinary investigations. The commission may initiate a licensee disciplinary investigation upon the commission's receipt of information suggesting that a licensee may have violated a law or rule enforced by the commission which, if true, would constitute a ground for licensee discipline.

193E—18.4(272C,543B) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.

2. Reports filed with the commission by the commissioner of insurance pursuant to Iowa Code subsection 272C.4(9).

3. Complaints filed with the commission by any member of the public.

4. License applications or other documents submitted to the commission.

5. Reports to the commission from any regulatory or law enforcement agency from any jurisdiction.

6. Commission audits of licensee compliance, such as those involving continuing education, trust accounts, or errors and omissions insurance.

193E—18.5(17A,272C,543B) Conflict of interest. If the subject of a complaint is a member of the commission, or if a member of the commission has a conflict of interest in any disciplinary matter before the commission, that member abstains from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193E—18.6(272C,543B) Complaints. Written complaints may be submitted to the commission office by mail, E-mail, online via the Commission's website ~~facsimile~~, or personal delivery by any member of the public with knowledge of possible law or rule violations by licensees. Timely filing is encouraged to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may become substantially altered during a period of delay.

18.6(1) Contents of a written complaint. Written complaints may be submitted on forms provided by

the commission which are available from the commission office and on the commission's Website. Written complaints, whether submitted on a commission complaint form or in other written medium, contains the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrates that the respondent has violated or is violating laws or rules enforced by the commission.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.
- g. The address of the property involved.

18.6(2) Immunity. A person is not civilly liable for filing a complaint unless such act is done with malice as provided by Iowa Code section 272C.8(1)“a”. Employees cannot be discriminated against as a result for filing a complaint as provided by Iowa Code section 272C.8(1)“c”. [CVD1]

18.6(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the commission with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the commission based in whole or in part on information provided by the complainant.

18.6(4) Role of the commission. The commission does not act as an arbiter of disputes between private parties, nor does the commission initiate disciplinary proceedings to advance the private interests of any person or party. The role of the commission in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The commission possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

18.6(5) Initial complaint screening. All written complaints received by the commission are initially screened by the commission's administrator or designated staff to determine whether the allegations of the complaint fall within the commission's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the commission's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous may be closed by the commission administrator or may be referred by the commission administrator to the commission for closure at the next scheduled commission meeting. All other complaints are referred by the commission administrator to the commission's disciplinary committee for committee review as described in rule 193E—18.9(17A,272C,543B). If a complainant objects in writing to the closure of the complaint by the commission administrator, the administrator will refer the objection to the disciplinary committee or commission for reconsideration.

18.6(6) *Withdrawal or amendment.* A complaint may be amended or withdrawn at any time prior to official notification of the respondent and thereafter at the sole discretion of the commission. The commission may choose to pursue a matter even after a complaint has been withdrawn.

193E—18.7(272C,543B) Case numbers. Whether based on a written complaint received by the commission or a complaint initiated by the commission, all complaint files are tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second three digits representing the order in which the case file was opened (e.g., 01-001, 01-002, 01-003, etc.). The commission’s administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the commission regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193E—18.8(272C,543B) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the commission is privileged and confidential pursuant to Iowa Code subsection 272C.6(4) and as such is not subject to discovery, subpoena, or other means of legal compulsion for release to any person except as provided in Iowa Code section 272C.6.

193E—18.9(17A,272C,543B) Investigation procedures.

18.9(1) *Disciplinary committee.* The commission chair may appoint two members of the commission to serve on a commission disciplinary committee. The chair may appoint a standing committee or may appoint different members to serve on the committee on an as-needed basis. The disciplinary committee is a purely advisory body which reviews complaint files referred by the commission’s administrator, generally supervises the investigation of complaints, and makes recommendations to the full commission on the disposition of complaints. Except as provided by rule 193E—18.10(17A,272C,543B), members of the committee do not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the commission.

18.9(2) *Committee screening of complaints.* Upon the referral of a complaint from the commission’s administrator or from the full commission, the committee determines whether the complaint presents facts which, if true, suggests that a licensee may have violated a law or rule enforced by the commission. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee refers the complaint to the full commission with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full commission recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

18.9(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193E—18.10(17A,272C,543B) or request commission staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or commission staff presents a report to the committee. The committee reviews the report and determines what further action is necessary. The committee may:

- a. Request further investigation.

b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full commission with the recommendation of closure.

c. Determine there is probable cause to believe that a law or rule enforced by the commission has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full commission with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred and either attempt informal settlement, subject to approval by the full commission, or refer the case to the full commission with the recommendation that the commission initiate a disciplinary proceeding (contested case).

e. Stay further action on the complaint if, for instance, there is a pending criminal case or civil litigation and the committee feels it would be in the best interest of the public and respondent to await the final outcome of the litigation. Additionally, the committee may stay further action on a complaint when the respondent's license is expired or revoked.

18.9(4) Subpoena authority. The commission is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding, pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 543B.36. Commission procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193E—18.10(17A,272C,543B) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

18.10(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the commission determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not obligated to attend an informal discussion. Because disciplinary investigations are confidential, the licensee cannot bring other persons to an informal discussion, but licensees may be represented by legal counsel. When an allegation is made against a firm, the firm may be represented by the designated broker, a managing partner, member or other firm representative.

18.10(2) Unless disqualification is waived by the licensee, commission members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because commission members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all commission members to participate in commission decision making and to receive the advice of staff, licensees who desire to attend an informal discussion therefore waive their right to seek disqualification of a commission member or staff based solely on the commission member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that a participating commission member or staff person is not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

18.10(3) Because an informal discussion constitutes a part of the commission's investigation of a

pending disciplinary case, the facts discussed at the informal discussion may be considered by the commission in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

18.10(4) The disciplinary committee, subject to commission approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193E—18.11(17A,272C,543B) Closing complaint files.

18.11(1) *Grounds for closing.* Upon the recommendation of the administrator pursuant to 18.6(5), the recommendation of the disciplinary committee pursuant to rule 193E—18.9(17A,272C,543B), or on its own motion, the commission may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the commission may close a complaint file. The commission will take into consideration the severity of the alleged violation, the sufficiency of the evidence, the possibility that the problem can be better resolved by other means available to the parties, whether the matter has been the subject of a local board proceeding, the clarity of the laws and rules which support the alleged violation, whether the alleged violation is likely to recur, the past record of the licensee, whether the licensee has previously received a cautionary letter concerning the act or omission at issue, and other factors relevant to the specific facts of the complaint. The following nonexclusive list illustrates the grounds upon which the commission may close a complaint file:

- a. The complaint alleges matters outside the commission’s jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the commission.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee’s typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or commission initiatives in light of the commission’s overall budget and mission.
- g. Extenuating factors exist which weigh against the imposition of public discipline.

18.11(2) *Closing orders.* The commission’s administrator may enter an order stating the basis for the commission’s decision to close a complaint file. If entered, the order cannot contain the identity of the complainant or the respondent, and cannot disclose confidential complaint or investigative information. If entered, closing orders will be indexed by case number and are a public record pursuant to Iowa Code subsection 17A.3(1) “d.” A copy of the order may be mailed to the complainant, if any, and to the respondent. The commission’s decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

18.11(3) *Cautionary letters.* When a complaint file is closed, the commission may issue a confidential

letter of caution to a licensee which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the commission may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

18.11(4) Reopening closed complaint files. The commission may reopen a closed complaint file if, after closure, additional information arises which provides a basis to reassess the merits of the initial complaint.

193E—18.12(17A,272C,543B) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the commission at a public meeting. Commission members who are disqualified are not included in determining whether a quorum exists. When two or more members of the commission are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute commission members pursuant to Iowa Code section 17A.11, subsection 5.

193E—18.13(17A,272C,543B) Disciplinary contested case procedures. Unless in conflict with a provision of Iowa Code chapter 543B or commission rules in this chapter, all of the procedures set forth in 193—Chapter 7 applies to disciplinary contested cases initiated by the commission.

193E—18.14(272C,543B) Disciplinary sanctions.

18.14(1) Type of sanctions. The commission has authority to impose, alone or in combination, the following disciplinary sanctions:

- a. Revocation of a license.[CVD2]
- b. Suspension of a license for a period of time or indefinitely.[CVD3] [RP4]
- c. Nonrenewal of a license.
 - c. Ban permanently, until further order of the commission, or for a specified period of time, the engagement in specified procedures, methods or acts.
 - d. Probation. As a condition to a period of probation, the commission may impose terms and conditions deemed appropriate by the commission including, but not limited to, substance abuse evaluation and such care and treatment as recommended in the evaluation or otherwise appropriate under the circumstances.
 - e. Mandate additional continuing education. The commission may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The commission may also specify whether this continuing education be in addition to the continuing education routinely needed for license renewal. The commission may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
- g. Require reexamination.[CVD5]
- f. Impose a monitoring or supervision arrangement.
- g. Downgrade a license from a broker license to a salesperson license.
- h. Issue a reprimand.
- i. Order a physical or mental examination with periodic reports to the commission, if deemed

necessary.

j. Impose civil penalties, the amount of which is at the discretion of the commission, but does not exceed \$2,500 per violation as authorized by Iowa Code section 543B.48. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193E—18.2(17A,272C,543B) and as listed in 18.14(5).

18.14(2) *Imposing discipline.* Discipline may only be imposed against a licensee by the authorization of Iowa Code section 272C.6(5).[CVD6] When determining the nature and severity of the sanction to be imposed against a particular licensee or groups of licensees, the commission may consider the following factors:

a. The relative seriousness of the violation as it relates to assuring the citizens of this state professional competency.

b. The facts of the particular violation.

c. Number of prior violations.

d. Seriousness of prior violations.

e. Whether remedial action has been taken.

f. The impact of the particular activity upon the public.

g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee, including those listed in 18.14(6).

18.14(3) *Voluntary surrender.* The commission may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The commission cannot accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and is published in the same manner as is applicable to any other form of disciplinary order.

18.14(4) *Notification criteria.* Whenever a broker's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee follows the procedures set forth in rule 193E—7.3(543B). Strict compliance with these procedures are a condition for an application for reinstatement. Whenever a salesperson's or broker associate's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee immediately notifies the licensee's broker, and:

a. Within 7 days of receipt of the commission's final order, notifies in writing all clients of the fact that the license has been revoked, suspended, limited, or voluntarily surrendered. Such notice advises the client to immediately contact the broker, unless the limitation at issue would not impact the real estate services provided for that client.

b. Within 30 days of receipt of the commission's final order, the licensee files with the commission copies of the notices sent pursuant to 18.14(4) "a." Compliance with this criteria is a condition for an application for reinstatement.

18.14(5) *Violations for which civil penalties may be imposed.* The following is a nonexclusive list of violations upon which civil penalties may be imposed:

a. Engaging in activities requiring a license when license is inactive.

b. Failing to maintain a place of business.

c. Improper care and custody of license:

(1) Failing to properly display license(s).

(2) Failing to return license in a timely manner (received within 72 hours as provided by 193E—subrules 6.1(1) and 6.1(2)).

(3) Failing to notify associate when license is returned.

(4) Failing to provide mailing address of associate when license is returned.

d. Failing to inform commission and remit necessary fees if appropriate:

(1) When changing business address (5 working days).

(2) When changing status (5 working days).

(3) When changing form of firm (5 working days).

(4) When opening a trust account by not filing a consent to examine for the account.

(5) When changing residence address or mailing address (5 working days).

(6) When independently obtained errors and omissions insurance status, coverage or provider changes (5 working days).

e. Maintaining inadequate transaction records such as:

(1) Failing to maintain a general ledger.

(2) Failing to maintain individual account ledgers.

(3) Failing to retain records on file.

f. Improper trust account and closing procedures:

(1) Failing to deposit funds as necessary.

(2) Disbursing trust funds prior to closing without written authorization.

(3) Withholding earnest money unlawfully when the transaction fails to consummate.

(4) Failing to obtain escrow agreement for undisbursed funds.

(5) Failing to remit and account for interest on closing statements.

(6) Computing closing statements improperly.

(7) Failing to provide closing statements.

(8) Retaining excess personal funds in the trust account.

(9) Failing as a salesperson or broker associate to immediately turn funds over to the broker.

(10) Failing to deposit trust funds in interest-bearing account in accordance with Iowa Code section 543B.46.

(11) Failing to account for and remit to the state accrued interest due in accordance with Iowa Code section 543B.46.

g. Failing to immediately present offer.

h. Advertising without identifying broker or clearly indicating advertisement is by a licensee.

i. Failing to provide information to the commission when requested relative to a complaint (14 calendar days).

j. Failing to obtain all signatures needed on contracts or to obtain signatures or initials of all parties to changes in a contract.

k. Placing a sign on property without consent, or failure to remove a sign when requested.

l. Failing to furnish a progress report when requested.

m. Failing by a broker to supervise salespersons or broker associates.

n. Failing by a broker associate or salesperson to keep the employing broker informed.

o. Issuing an insufficient funds check to the commission for any reason or to anyone else in the individual's capacity as a real estate licensee.

p. Issuing an insufficient funds check on the broker's trust account.

q. Engaging in conduct which constitutes a barred practice or tying arrangement as banned by these rules.

r. Failing to inform clients of real estate brokerage firm of the date the firm will cease to be in business and the effect upon sellers' listing agreements.

s. Violating any of the remaining provisions in 193E—Chapters 1 to 20 inclusive, which have not heretofore been specified in this rule.

18.14(6) Amount of civil penalties. Factors the commission may consider when determining whether to assess and the amount of civil penalties include:

a. Whether other forms of discipline are being imposed for the same violation.

b. Whether the amount imposed will be a substantial deterrent to the violation.

c. The circumstances leading to the violation.

d. The severity of the violation and the risk of harm to the public.

- e.* The economic benefits gained by the licensee as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time elapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the licensee acted in bad faith.
- m.* The extent to which the licensee cooperated with the commission.
- n.* Whether the licensee with a lapsed, inactive, suspended, limited or revoked license improperly engaged in practices which need licensure.

193E—18.15(17A,272C,543B) Reinstatement. The term “reinstatement” as used in this rule includes both the reinstatement of a suspended license and the issuance of a new license following the revocation, voluntary revocation, or voluntary surrender of a license.

18.15(1) Any person whose license has been revoked or suspended by the commission, or who has voluntarily surrendered a license to the commission or has agreed to a voluntary revocation of a license, may apply to the commission for reinstatement in accordance with the terms of the order of revocation, voluntary surrender, voluntary revocation, or suspension.

18.15(2) Unless otherwise provided by law, if the order of revocation, voluntary revocation, voluntary surrender, or suspension did not establish terms upon which reinstatement might occur, initial application for reinstatement cannot be made until at least two years have elapsed from the date of the order or the date the commission accepted the order.

18.15(3) Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement, as a condition of reinstatement, starts over as an original applicant for a salesperson license, regardless of the type of license the applicant previously held. The applicant is obligated to satisfy all preconditions for licensure as a salesperson.

18.15(4) In addition to the provisions of rule 193—7.38(17A,272C), the following provisions apply to license reinstatement proceedings:

a. The commission may grant an applicant’s request to appear informally before the commission prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, commission members or staff before whom the applicant appears.

b. An order granting an application for reinstatement may impose such terms and conditions as the commission deems desirable, which may include one or more of the types of disciplinary sanctions described

in rule 193E—18.14(543B).

c. The commission cannot grant an application for reinstatement when the initial order which revoked, suspended or limited the license; denied license renewal; or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the commission's satisfaction that:

- (1) All terms of the sentencing or other criminal order have been fully satisfied;
- (2) The applicant has been released from confinement and any applicable probation or parole; and
- (3) Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 5/6/83, Notice 3/2/83—published 5/25/83, effective 7/1/83]

[Filed 10/7/83, Notice 8/17/83—published 10/26/83, effective 12/2/83]

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[Filed emergency 7/19/85—published 8/14/85, effective 7/19/85]

[Filed 5/26/88, Notice 3/9/88—published 6/15/88, effective 7/20/88]

[Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]¹

[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]

[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95]

[Filed 3/21/96, Notice 1/3/96—published 4/10/96, effective 5/15/96]

[Filed 6/13/97, Notice 4/9/97—published 7/2/97, effective 8/6/97]

[Filed 12/11/98, Notice 9/23/98—published 12/30/98, effective 2/3/99]

[Filed 5/28/99, Notice 3/24/99—published 6/16/99, effective 7/21/99]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	45
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	49

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Commission	Date:	August 1, 2023	Total Rule Count:	7
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	19	Iowa Code Section Authorizing Rule:	543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 19 is an explanation of how the errors and omissions insurance is regulated. The Commission sees a very high volume of non-compliant E&O Audits. This has been an ongoing issue for the Commission. The Commission does not take lightly to a licensee not having insurance in place as this is not protecting the public. If a person of the public needs to file an insurance claim against a licensee that does not have insurance, this is very problematic. This chapter is very important to keep as is. I did take out restrictive language, however, there was not much else to remove. There are guidelines to licensees having insurance and amounts of coverage along with deductibles. This chapter covers all of this information. The chapter is important for the public to understand that their agent representing them has insurance.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the Errors and Omissions insurance for the public and licensees to understand. IREC staff performs monthly audits and we have a high volume of non-compliant audits. It is important for everyone to understand all of the criteria in this chapter

What are the costs incurred by the public to comply with the rule?

No direct cost to the public. There is a cost for licensees to comply with the requirement of purchasing insurance. The cost to the public could be a lot higher if insurance rules were not in place for licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff coverage for audits and non compliant cases is a cost to the agency. This is a very time consuming for staff.

Do the costs justify the benefits achieved? Please explain.

Yes, it is important to continue monthly audits to protect the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

19.2-removal of restricted and outdated language
19.3-removal of restricted and outdated language
19.4 removal of restricted language
19.5-removal of restricted language
19.6-removal of restricted language
19.7-removal of restricted language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 19

REQUIREMENTS FOR MANDATORY ERRORS AND OMISSIONS INSURANCE

[Prior to 9/4/02, see 193E—Ch 6]

193E—19.1(543B) Insurance definitions.

“Aggregate limit” is a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period such as the policy term.

“*Claims-made*” means policies written under a claims-made basis will cover claims made (reported or filed) during the year the policy is in force for incidents which occur that year or during any previous period the policyholder was insured under the claims-made contract. This form of coverage is in contrast to the occurrence policy which covers today’s incident regardless of when a claim is filed even if it is one or more years later.

“*Extended reporting period*” is a designated period of time after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim had been made during the policy period.

“*Licensee*” is any active individual broker, broker associate, or salesperson; any partnership; or any corporation.

“*Per claim limit*” means the maximum limit payable, per licensee, for damages arising out of the same error, omission, or wrongful act.

“*Prior acts coverage*” applies to policies on a claims-made versus occurrence basis. Prior acts coverage responds to claims which are made during a current policy period, but the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period.

“*Proof of coverage*” means a copy of the actual policy of insurance, a certificate of insurance or a binder of insurance.

“*Retroactive date*” is a provision found in many claims-made policies. The policy will not cover claims for injuries or damages that occurred prior to the retroactive date even if the claim is first made during the policy period.

“*Umbrella type coverage*” means a policy that provides insurance coverage for the broker or firm and all licensees assigned.

193E—19.2(543B) Insurance criteria—general. The group coverage insurance policy selected by the commission is approved by the Iowa insurance division. As a condition of licensure, all active real estate licensees follow Iowa Code section 543B.47(1) regarding mandatory errors and omissions insurance.[CVD1]

19.2(1) Who submits plan of coverage. The following persons submit proof of insurance when needed or when requested:

- a. Any active individual broker, broker associate, broker sole proprietor or salesperson.
- b. Any active firm :

19.2(2) Inactive status. Individuals whose licenses are on inactive status as defined in Iowa Code section 543B.5(12) do not need to carry errors and omissions insurance as authorized by Iowa Code section 543B.47(1).

19.2(3) Territory. All resident Iowa licensees are covered for activities contemplated under Iowa Code chapter 543B both in and out of the state of Iowa. Nonresident licensees participating under the state plan are not covered both in and out of the state of Iowa unless the state plan selected by the commission will cover participating nonresidents when involved in real estate activities in the nonresident state.

19.2(4) Insurance form. Licensees may obtain errors and omissions coverage through the insurance carrier selected by the commission to provide the group policy coverage. The following are minimum criteria

of the group policy to be issued to the Iowa real estate commission including, as named insureds, all licensees who have paid the necessary premium:

- a. All activities contemplated under Iowa Code chapter 543B are included as covered activities;
- b. A per claim limit is not less than \$100,000;
- c. An annual aggregate limit is not less than \$100,000;
- d. Limits are to apply per licensee, per claim;
- e. Defense costs are to be payable in addition to damages;
- f. The contract of insurance pays, on behalf of the insured person(s), liabilities owed.

19.2(5) Contract period. The contract between the insurance carrier or program manager and the commission may be written for a one- to three-year period with the option to renew or renegotiate each year thereafter. The commission reserves the right to terminate the contract after written notice to the carrier at least 120 days prior to the end of any policy term and place the contract out for bid.

- a. Policy periods are not less than 12-month policy terms.
- b. The policy provides full and complete prior acts coverage.

(1) If the licensee purchased full prior acts coverage on or after July 1, 1991[CVD2] , that licensee continues to be guaranteed full prior acts coverage if insurance carriers are changed in the future.

(2) The retroactive date of the master policy is never later than July 1, 1991, for those that can provide proof of continuous coverage to that date.

(3) The retroactive date for each licensee is individually determined by the inception date of coverage and proof of continuous coverage to that date.

(4) The retroactive date for any new licensee who first obtains a license after July 1, 1991, is individually determined by the effective date of the license, the inception date of coverage, and proof of continuous coverage to that date.

19.2(6) Any licensee insured in the state selected program whose license becomes inactive will not be charged an additional premium if the license is reinstated during the policy period.

19.2(7) Any licenses issued at other than renewal and insured by the state selected program are subject to a pro-rata premium.

193E—19.3(543B) Other coverage. Licensees are not mandated to purchase insurance coverage through the group policy selected by the commission and may obtain errors and omissions coverage independently if the coverage contained in the policy complies with the following::

19.3(1) For active individual licensees, all provisions of Iowa Code section 543B.47 apply.

If the other coverage is an individual policy, it is each licensee's responsibility to provide proof of independently carried insurance coverage to the Iowa real estate commission when needed.

19.3(2) For all active partnerships and corporations, otherwise known as firms, all provisions of Iowa Code section 543B.47 apply.

a. If the other coverage is an individual policy covering the firm, it is the designated broker's responsibility to provide proof of the firm's independently carried insurance coverage to the Iowa real estate commission when needed.

b. If the other coverage is an umbrella type policy covering the firm and all licensees assigned that perform real estate activities, it is the responsibility of the designated broker of the firm to provide a list of licensees assigned to the firm that are covered under the firm's insurance policy to the Iowa real estate commission when needed.

19.3(3) For sole-proprietor single license brokers, all provisions of Iowa Code section 543B.47 apply.

a. If the broker's other coverage is an individual policy, it is each licensee's responsibility to provide proof of the independently carried insurance coverage to the Iowa real estate commission when needed, as provided in 19.3(1).

b. If the other coverage is an umbrella type policy covering the broker and all licensees assigned that perform real estate activities, it is the responsibility of the broker to provide a list of licensees assigned to the broker that are covered under the broker's insurance policy to the Iowa real estate commission when needed.

19.3(4) For independently carried individual type coverage, the following apply:

a. All activities contemplated under Iowa Code chapter 543B are included as covered activities.

b. A per claim limit is not less than \$100,000.

c. The maximum deductible for an individual policy for damages and defense, each licensee, and each claim is not more than the deductible of the commission group policy for the current policy term.

19.3(5) For firms and sole-proprietor brokerages with independently carried firm umbrella type coverage, the following apply:

a. All activities contemplated under Iowa Code chapter 543B are included as covered activities.

b. A per claim limit is not less than \$100,000.

c. An aggregate limit is:

(1) Not less than \$250,000 for a broker or firm with 2 through 10 licensees;

(2) Not less than \$500,000 for a broker or firm with 11 through 40 licensees;

(3) Not less than \$1,000,000 for a broker or firm with 41 or more licensees.

d. There is no maximum deductible limit for firm umbrella type coverage policy.

e. If a firm size change or a sole-proprietor brokerage size change results in a higher aggregate minimum criteria, that firm or broker corrects the deficiency within one year, or the next renewal term of the insurance policy, whichever comes first.

19.3(6) To comply with the provisions of the Iowa errors and omissions law, if other independently carried insurance is provided, as proof of errors and omissions coverage for individual or firm umbrella type coverage, the other insurance carrier agrees to either a noncancelable policy, or provides a letter of commitment to notify the Iowa real estate commission 30 days prior to the intention to cancel the policy.

19.3(7) Whenever commission criteria, coverage, or limits change, the commission provides a reasonable transition period to allow the licensee or firm with other coverage the opportunity to change carriers or coverage to comply with all criteria and limits, providing the present policy was in effect and in compliance with all prior criteria. The licensee or firm corrects the deficiency within one year, or not later than the next renewal term of the insurance policy, whichever comes first.

19.3(8) It is the responsibility of each individual licensee to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

19.3(9) It is the responsibility of the designated broker of the firm to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

19.3(10) Self-insurance does not comply with the provisions of the Iowa errors and omissions insurance law.

193E—19.4(543B) Administrative criteria—general.

19.4(1) It is the responsibility of the insurance carrier or program manager to obtain approval from the Iowa division of insurance for the group policy before inception of the program or policy period.

19.4(2) It is the responsibility of the insurance carrier or program manager to handle administrative duties relative to operation of the program selected by the commission, including billing and premium collection, toll-free access for questions, and claim processing and general informational mailings.

19.4(3) It is the responsibility of the insurance carrier or program manager to send a billing notice to each licensee.

19.4(4) It is the responsibility of the insurance carrier or program manager to collect all premiums due and verify proper payment.

A schedule of licensees who have paid the proper premium and who have coverage in force is provided electronically to the commission at agreed time intervals.

19.4(5) It is the responsibility of the insurance carrier or program manager to issue individual certificates to each licensee and a master policy to the commission.

19.4(6) It is the responsibility of the insurance carrier or program manager to market its program and to develop and distribute informational brochures about the coverages provided, services available and criteria of Iowa Code section 543B.47.

a. The content of any brochures or other literature provided is the responsibility of the insurance carrier or program manager.

b. Advertising materials may be reviewed by the executive officer for the commission or appropriate staff person for content only and not for a legal determination of compliance with Iowa law or division of insurance criteria.

19.4(7) It is the responsibility of the insurance carrier or program manager to provide educational seminars in the state of Iowa at the request of the commission and subject to terms and conditions agreeable to each party involved.

193E—19.5(543B) Commission responsibilities. The commission provides the insurance carrier or program manager an electronic schedule of all active licensees approximately three months in advance of inception (or renewal), or as otherwise agreed upon, which the insurance carrier or program manager may use to issue billing notices.

19.5(1) The insurance carrier or program manager provides the commission with a schedule of insured licensees. The commission will be responsible for comparing this schedule against its own records to determine which licensees elected not to participate in the state program and those that have failed to furnish the commission with acceptable proof of insurance necessary for continued licensure.

19.5(2) It is the responsibility of the commission to review proof of other insurance received from licensees not participating in the state program and to confirm that the other insurance meets the minimum criteria of these rules.

19.5(3) The commission may mandate that an approved standard form be used to submit proof of other insurance coverage for review.

193E—19.6(543B) Compliance.

19.6(1) The commission needs receipt of proof of errors and omissions insurance from new licensees before the license is issued.

19.6(2) The commission needs receipt of proof of errors and omissions insurance from the applicant before reinstating an expired license.

19.6(3) The commission needs receipt of proof of errors and omissions insurance before reactivating an inactive status license to active status.

19.6(4) Applicants for license renewal attest and certify that they have current errors and omissions insurance in effect that meets Iowa insurance criteria.

a. The commission will verify by random audit or on a test basis the insurance compliance attested to by the licensee.

b. Licensees participating in the state group program cannot be audited if commission records indicate the insurance carrier or program manager has submitted current proof of coverage.

c. Licensees with other insurance coverage cannot be audited if commission records indicate the current proof of coverage has been submitted.

d. The commission may random audit by any factor as will provide a reasonable sampling given the volume, purpose and scope of audit.

e. The commission may random audit as the result of any complaint filed with the commission whether or not adequate insurance coverage was questioned in the complaint.

f. The commission may audit compliance with insurance coverage at any time the commission has

reasonable cause to question a licensee's compliance.

19.6(5) A licensee is needed to carry insurance on an uninterrupted basis and cannot avoid discipline simply by acquiring insurance after receipt of an audit notice.

19.6(6) Failure to comply with Iowa Code section 543B.47(6) [CVD3] within 20 calendar days of the commission's request is prima facie evidence of a violation of Iowa Code sections 543B.15(5), 543B.47(1), and is grounds for the denial of an application for licensure, the denial of an application to renew a license, or the suspension or revocation of a license.

19.6(7) Submitting false documentation of insurance coverage, or falsely claiming to have or attesting to having insurance coverage, is prima facie evidence of violation of Iowa Code sections 543B.29(1) and 543B.34(1).

19.6(8) Failure to provide required proof of insurability within 30 days of written notice by the commission results in the placement of the license on inactive status. A license that has been placed on inactive status pursuant to this provision is not reactivated until satisfactory evidence has been provided verifying that coverage is current and in full force and effect.

[ARC 9458B, IAB 4/20/11, effective 5/25/11]

193E—19.7(543B) Records and retention. It is the responsibility of the licensee to maintain records which support the validity of the insurance. Documentation is retained by the licensee for a period of three years after the license renewal date or the anniversary of the license renewal date.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 4/26/91, Notice 3/20/91—published 5/15/92, effective 6/19/91]

[Filed 12/4/92, Notice 9/30/02—published 12/23/92, effective 1/27/93]

[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

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****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	75
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	84

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE? No

[Empty gray box for response]

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	August 1, 2023	Total Rule Count:	1
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	20	Iowa Code Section Authorizing Rule:	557A
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 20 is an explanation of how timeshare companies pay Iowa fees to be able to file their time shares with the state of Iowa. We mainly see out of state timeshares that are marketed in Iowa. We do not see much for time share estates in Iowa. This is purely an informational chapter for filing fees for companies. IREC does not have jurisdiction over the timeshares only the marketing. This actually gets confusing for the public as we receive timeshare complaints but the properties are not located in Iowa so we do have jurisdiction over them.

Is the benefit being achieved? Please provide evidence.

The information available is achieved, however, the whole scenario of timeshares in Iowa is confusing for most. Iowa code 557A is in place and this chapter does explain filing fees, which is necessary.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public only to timeshare companies, including a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering and a registration fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering for consolidating additional time-share intervals with a prior registration.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is a staff cost to process timeshare filings. This is not a huge component of anyone's time.

Do the costs justify the benefits achieved? Please explain.

Yes, staff has to process filings and timeshare companies have to pay the filing fees to market their properties to our residents.

Are there less restrictive alternatives to accomplish the benefit? YES NO

Surrounding states are similar with their timeshare rules as you can see above Nebraska is pretty much the same. Here is a comparison with Nebraska:
 An application for registration of a time-share program shall be accompanied by a filing fee of \$200.00 plus \$5.00 for each 25 time-share intervals or portions thereof. After issuance of a certificate, there is an annual fee of \$50.00 plus \$5.00 for each 25 time-share intervals or fractions thereof computed on the number of time-share intervals in the original application and shall be due and payable on January 1 of each year. The

annual fee for each time-share program shall not exceed one thousand five hundred dollars.

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

20.1 – removed restrictive or outdated language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 20

TIME-SHARE FILING

[Prior to 9/4/02, see 193E—2.8(557A)]

193E—20.1(557A) Time-share interval filing fees. Each initial filing made pursuant to Iowa Code sections 557A.11 and 557A.12 are accompanied by a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering.

20.1(1) A registration fee is paid with the filing of an application for registration consolidating additional time-share intervals with a prior registration and a fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering.

20.1(2) A fee is not charged for amendments to the property report as a result of amendments to the initial filing, unless the commission determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional time-share intervals with a prior registration.

This rule is intended to implement Iowa Code chapter 557A.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	4
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Commission	Date:	August 1, 2023	Total Rule Count:	9
IAC #:	193E	Chapter/ SubChapter/ Rule(s):	21	Iowa Code Section Authorizing Rule:	17A, 543B
Contact Name:	Renee Paulsen	Email:	Renee.paulsen@iowa.gov	Phone:	515-725-9028

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

193E Chapter 21 is an explanation of the Commission’s enforcement against people found practicing real estate without the proper license. The Commission sees a number of unlicensed cases every year. I do know that the penalties are not as severe as Nebraska. I have worked with Nebraska’s investigator in the past and they give authority to their staff to issue cease and desists without the case going before the Commission. All of our cases including unlicensed practice goes before the Commission for a decision on penalty. Our biggest issue with unlicensed practice is 3rd party property management. We have issued quite a few cease and desists orders on licensed property management. This chapter is important for the public to understand what the Commission does have authority over and able to impose against someone who is found to be practicing without a license. I refer to this chapter very often. It is helpful to point out to someone when they call asking questions regarding unlicensed practice.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the process the Commission has authority to impose for unlicensed practice.

What are the costs incurred by the public to comply with the rule?

No direct cost to the public to have this chapter but the cost could be high if someone is unlicensed helping the public with real estate transactions.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff enforcement costs along with the Commission.

Do the costs justify the benefits achieved? Please explain.

Yes, it is important to enforce unlicensed practice.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter has now been reflected to provide less restrictive language.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

All of the below rules have been updated to reflect less restrictive language and outdated information.

21.1 (1)

21.2

21.3

21.5

21.6

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 21

ENFORCEMENT PROCEEDINGS AGAINST UNLICENSED PERSONS

193E—21.1(17A,543B) Civil penalties against unlicensed persons.

21.1(1) *Commission authority.* The commission is authorized to issue a cease and desist order and to impose a civil penalty as authorized by Iowa Code section 543B.34(3).[CVD1] against any person who is not licensed by the commission but who acts in the capacity of a real estate broker or salesperson.

21.1(2) *Unlicensed person.* An “unlicensed person” includes any individual or business entity that has never been licensed by the commission, has voluntarily surrendered a license issued by the commission, or has allowed a license issued by the commission to lapse and the time in which the license could have been reinstated pursuant to rule 193E—3.6(272C,543B) or 193E—4.6(272C,543B) has passed.

193E—21.2(17A,543B) Unlawful practices. Practices by unlicensed persons which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which need licensure pursuant to Iowa Code sections 543B.1, 543B.3, and 543B.6, which do not fall into the exceptions listed in Iowa Code section 543B.7.
2. Violating Iowa Code section 543B.1. [CVD2]
3. Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
4. Use or attempted use of a licensee’s license or an expired, suspended, revoked, or nonexistent license.
5. Falsely impersonating a licensed real estate professional.
6. Providing false or forged evidence of any kind to the commission in obtaining or attempting to

obtain a license.

7. Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

193E—21.3(17A,543B) Investigations. The commission is authorized by Iowa Code sections 17A.13(1) and 543B.34(3) to conduct such investigations as are needed to determine whether grounds exist to issue a cease and desist order and to impose civil penalties against an unlicensed person. Such investigations conform to the procedures outlined in 193—Chapter 6 and 193E—Chapter 18. Complaint and investigatory files concerning unlicensed persons are not confidential except as may be provided in Iowa Code chapter 22.

193E—21.4(17A,543B) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 543B.34, the commission is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Commission procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

193E—21.5(17A,543B) Notice of intent to impose civil penalty. Prior to issuing a cease and desist order and imposing a civil penalty against an unlicensed person, the commission provides the unlicensed person written notice and the opportunity to request a contested case hearing. Notice of the commission’s intent to issue a cease and desist order and to impose a civil penalty are served by certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

1. A statement of the legal authority and jurisdiction under which the proposed cease and desist order would be issued and the civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to obligate compliance with Iowa Code chapter 543B.
5. Notice of the unlicensed person’s right to a hearing and the time frame in which hearing is requested.
6. The address to which written request for hearing is made.

193E—21.6(17A,543B) Requests for hearings.

21.6(1) Unlicensed persons request a hearing within 30 days of the date the notice is received if served through certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing is in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

21.6(2) If a request for hearing is not timely made, the commission chair or the chair’s designee may issue an order imposing a civil penalty and compliance with Iowa Code chapter 543B, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

21.6(3) If a request for hearing is timely made, the commission issues a notice of hearing and conducts a contested case hearing in the same manner as applicable to disciplinary cases against licensees. Rules

governing such hearings may be found in 193—Chapter 7 and 193E—Chapter 18.

21.6(4) An unlicensed person who fails to timely request a contested case hearing has failed to exhaust “adequate administrative remedies” as that term is used in Iowa Code section 17A.19(1).

21.6(5) An unlicensed person who is aggrieved or adversely affected by the commission’s final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

21.6(6) An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and compliance with Iowa Code chapter 543B at any stage of the proceeding upon mutual consent of the commission.

21.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in 193—subrule 7.30(2). Hearings are open to the public.

193E—21.7(17A,543B) Alternative procedure. The commission may, as an alternative to the notice and request for hearing procedures described in 193E—21.5(17A,543B) and 193E—21.6(17A,543B), issue a statement of charges and notice of hearing in a format similar to that used for licensee discipline.

193E—21.8(17A,543B) Factors to consider. The commission may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the commission, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the unlicensed person acted in bad faith.
14. The extent to which the unlicensed person cooperated with the commission.

193E—21.9(17A,543B) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the commission may seek an injunction in district court, enter into a consent agreement with the unlicensed person, or issue an informal cautionary letter.

These rules are intended to implement Iowa Code chapters 17A and 543B.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	15
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 19, 2023	Total Rule Count:	23
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	1 Organization and Administration	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@iowa.gov	Phone:	515-725-8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 1 provide clarity to the organization and administration of the real estate appraiser board. It also establishes Iowa's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and the requirements under the Appraisal Qualification Board (AQB) of the Appraisal Foundation's (TAF) Criteria. This chapter also includes pertinent information to the types of appraiser licenses issued in the State of Iowa and the process to obtain licensure.

Is the benefit being achieved? Please provide evidence.

Yes, in 2019 the State of Iowa received an Excellence rating by the Appraisal Subcommittee (ASC). The rating criteria showed that the State of Iowa met all Title XI mandates and complies with requirements of ASC Policy Statements. The ASC reported the state maintains a strong regulatory program with very low risk of program failure. This audit, by the ASC, is done on a 2-year cycle. The 2022 review completed by the ASC was done virtually due to COVID. Iowa received an excellence rating on that review as well but it was not considered a full review of the program as it was virtual.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.1.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.
In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify the rules text, as noted below, including deleting matter that is adequately addressed by the ASC as required by Title XI.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 1.1 redundant, outdated, obsolete, duplicative
- 1.2 outdated
- 1.3 outdated
- 1.5 outdated
- 1.6 outdated
- 1.7 outdated
- 1.8 through 1.16 obsolete (see next section)
- 1.18 outdated
- 1.19 outdated
- 1.20 through 1.22 obsolete (see next section)
- 1.23 un-necessary, outdated

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 1.8 through 1.16
- 1.20 through 1.22

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

193F—1.1(543D) Description.

1.1(1) The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D with regard to the appraisal of real property in the state of Iowa, examination of candidates, issuance of licenses, ; investigation of alleged violations by licensees, and discipline of those regulated by the board. Through its actions, the board seeks to promote and maintain a high level of public trust in professional appraisal practice.

1.1(2) The board maintains an office at 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

1.1(3) All board action under Iowa Code chapter 543D and 193F—Chapter 17 will be taken under the supervision of

the director, as provided in Iowa Code section 543D.23 and these implementing rules.

193F—1.2(543D) Administrative authority.

1.2(1) The director is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D and 193F—Chapter 17. The director may exercise all authority conferred upon the board and has to have access to all records and information to which the board has access. In supervising the board, the director will independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

1.2(2) In performing its duties and in exercising its authority under Iowa Code chapter 543D and 193F—Chapter 17, the board may take action without preclearance by the director if the action is ministerial or nondiscretionary. As used in this chapter, the words “ministerial or nondiscretionary” include any action expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D and 193F—Chapter 17, the board will secure approval of the director if the proposed action is or may be anticompetitive, as provided in 193F—Chapter 17. As used in this chapter, the word “discretionary” includes any action that is authorized but not expressly imposed by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rule making, declaratory orders, or waivers from rules, rule making, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

1.2(4) Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action through the preclearance procedures outlined in 193F—Chapter 17.

1.2(5) A person aggrieved by any final action of the board taken under Iowa Code chapter 543D or 193F—Chapter 17 may appeal that action to the director within 20 days of the date the board issues the action.

a. The appeal process applies whether the board action at issue was ministerial or non discretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the director.

b. No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the director, as more fully described in 193F—Chapter 17.

c. Records, filings, and requests for public information. Final board action, regardless of whether such board action is ministerial, nondiscretionary, or discretionary, will be immediately effective when issued by the board but is subject to review or appeal to the director as permitted by and in accordance with 193F—Chapter 17. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action will be delayed during the pendency of such review or appeal.

193F—1.3(543D) Annual meeting. The annual meeting of the board will be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson are elected to serve until their successors are elected.

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members.

193F—1.5(543D) Executive officer’s duties.

1.5(1) The executive officer is to cause complete records to be kept of applications for examination and registration, certificates and permits granted, and all necessary information in regard thereto.

1.5(2) The executive officer is to determine when the legal obligations for certification and registration have been satisfied with regard to issuance of certificates or registrations, and the executive officer will submit to the board any questionable application.

1.5(3) The executive officer will keep accurate minutes of the meetings of the board. The executive officer will keep a list of the names of persons issued certificates as certified general real property appraisers, certified residential real property appraisers and associate real property appraisers.

193F—1.6(543D) Records, filings, and requests for public information. Unless otherwise specified by the rules of the department of inspections, appeals, & licensing, the board is the principal custodian of its own agency orders, statements of

law or policy issued by the board, legal documents, and other public documents on file with the board.

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours.

1.6(2) **1.6(2)** Deadlines. Unless the context dictates otherwise, such as is the case for timely renewal of a registration or certificate, any deadline for filing a document will be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday

193F—1.7(543D) Adoption, amendment or repeal of administrative rules.

1.7(1) The board is authorized to adopt, amend or repeal its administrative rules in accordance with the provisions of Iowa Code section 17A.4. Prior to the adoption, amendment or repeal of any rule of the board, any interested person, as described in Iowa Code section 17A.4(1) “b,” may submit any data, views, or arguments in writing concerning such rule or may request to make an oral presentation concerning such rule. Such written comments or requests to make oral presentations are to be filed with the board at its official address and should clearly state:

- a. The name, address, and telephone number of the person or agency authoring the comment or request;
- b. The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;
- c. The general content of the oral presentation. A separate comment or request to make an oral presentation will be made for each proposed rule to which remarks are to be asserted.

1.7(2) The board will acknowledge receipt and acceptance for consideration of written comments and requests to make oral presentations.

1.7(3) Written comments received after the deadline set forth in the Notice of Intended Action may be accepted by the board although their consideration is not assured. Requests to make an oral presentation received after the deadline will not be accepted and will be returned to the requester.

193F—1.8(543D) Types of appraiser classifications. There are four types of appraiser classifications:

1. Associate residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.
2. Associate general property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.
3. Certified residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 5.
4. Certified general real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 6.

193F—1.9(543D) Qualified state appraiser certifying agency.

1.9(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.9(2) The board will adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum obligations outlined in the current version of the AQB criteria, the minimum standards established in the criteria will apply and these rules will give way to the minimum obligations to comply with federal rule, law, or policy.

193F—1.10(543D) AQB criteria.

1.10(1) No person may be certified as a certified appraiser unless the person is eligible under the January 1, 2022, AQB criteria.

1.10(2) The January 1, 2022, AQB criteria outline the conditions under which applicants for certification are eligible to take the mandated examinations.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

Total number of rules repealed:	13
Proposed word count reduction after repeal and/or re-promulgation	1754
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	52

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 4, 2023	Total Rule Count:	1
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	2 Definitions	Iowa Code Section Authorizing Rule:	543D.2
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 2 establishes the definition of acronyms and terms used throughout the Iowa Administrative Code for 193F. The benefit is to aid licensees and the general public terms used throughout 193F.

Is the benefit being achieved? Please provide evidence.

Yes, the terms being defined are used throughout IAC 193F.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.2.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who received services from these licensed professionals.
In addition, these definitions are defining terms used by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 which is the federal requirement for the Real Estate Appraiser Examining Board.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The board has sought to simplify the rules text, as noted below, including deleting matter that is adequately addressed by statute.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

2.1 duplicative , obsolete, un-necessary

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 2
DEFINITIONS

193F—2.1(543D) Applicability. The following definitions apply to the rules of the real estate appraiser examining board.

“*Appraisal Foundation*” - same as Iowa Code Section 543D.2(3).

“*Appraisal subcommittee*” means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

“*AQB*” means the Appraiser Qualifications Board of the Appraisal Foundation.

“*AQB Criteria*” or “*the Criteria*” means “The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria,” effective as of January 1, 2022.

“*ASB*” means the Appraisal Standards Board of the Appraisal Foundation.

“*Associate real property appraiser*” - Same as Iowa Code Section 543D.2(6).

“*Certified appraiser*” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification is qualified to appraise one to four residential units without regard to value or complexity.

2. The certified general real property appraiser classification is qualified to appraise all types of real property.

“*FFIEC*” means the Federal Financial Institutions Examination Council.

“*FIRREA*” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“*Director*” - same as Iowa Code Section 543D.2(9)(a).

“*USPAP*” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation, effective as of January 1, 2024. This rule is intended to implement Iowa Code section 543D.2.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	216
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	1

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 4, 2023	Total Rule Count:	5
allow	193F	Chapter/ SubChapter/ Rule(s):	3 General Provisions for Examinations	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 3 establishes the provisions for those seeking to take the real estate appraiser examination in Iowa. The benefit is to guide individuals sitting for the certified residential or the certified general exam in the State of Iowa as required by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation (TAF).

Is the benefit being achieved? Please provide evidence.

Yes, as of 8/17/2023, Iowa has licensed 13 individuals through the conversion process after passing the AQB-approved examination.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.3. Examination candidates are responsible for costs associated with examinations. The associate (trainee) appraiser is required to pay a one time \$150 exam application fee after they have sat and been approved through the work product review interview with the board's work product review committee. The examination is \$145 which is paid to the qualified testing center, this fee is for each time they sit until receiving a passing score within 2 years of the approved exam & experience application. The state's current qualified testing company has three centers in Iowa this requires a number of licensee to incur travel costs as well as mileage.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.
In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 3.1 obsolete
- 3.2 outdated, redundant, un-necessary, duplicative
- 3.3 duplicative
- 3.4 outdated, redundant
- 3.5 obsolete

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 3.1
- 3.5

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 3
GENERAL PROVISIONS FOR EXAMINATIONS

193F—3.1(543D) Examinations. Applicants for a license from the board needs to take the examination from the board-approved testing service.

193F—3.2(543D) Conduct of applicant.

3.2(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

3.2(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.

b. Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers

to be copied by another candidate during the examination; referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information needed for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one’s behalf.

3.2(3) Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing. The request for hearing will be in writing, will briefly describe the basis for the challenge, and will be filed in the board’s office within 30 days of the date of the board decision that is being challenged.

193F—3.3(543D) Application for certification or registration. Applicants for certification or registration has to successfully complete the appropriate examination.

3.3(1) All initial applications for certification or associate registration will be made through the board’s online system. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. The board may also deny an application based on disciplinary action pending or taken against an applicant consistent with Iowa Code section 272C.12.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	405
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	16

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars

which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	8/7/2023	Total Rule Count:	6
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	4 Associate Real Property Appraiser *Title to change	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 4 establishes the pathway for those seeking to become an associate (trainee) real estate appraiser in Iowa. The benefit is to allow individuals an avenue to become an associate appraiser as required by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation (TAF). It also allows for the proper training of appraisers prior to completing work for Iowa's as a certified appraisers.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved by allowing qualified individuals to enter the profession. Additionally, the rule satisfies the statutory requirement set by TAF. In 2022, Iowa processed 34 associate real estate appraiser credentials.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.4. Associate appraiser candidates are responsible for costs associated with licensure.

The qualifying education requirement for an associate appraiser regardless of certification type is approximately \$1,295 through the Appraisal Institute. Other providers are available and I calculated the cost from the most commonly used provider by Iowa appraisers. The Iowa licensee fee is \$200 for a biennial license with a background check requirement of \$51. Total approximate cost is \$1,546.

The chart below indicates the initial and renewal licensure investment for associate (trainee) appraisers. Most states also require an application fee of approx. \$100-\$150 depending on the state, Iowa does not have this fee. In 2021, the associate appraiser initial and renewal fee was lowered from \$310 to \$200. Iowa's initial licensure application process is similar to those implemented by other state boards of real estate appraisers.

Note: The profession does require formal education which is required when applying for the Exam & Experience later in the process of the associate appraiser. These costs will be included in that chapters Red Tape Review Rule Report which is chapter 6. Associate appraisers will be allowed to now use the Practical Applications of Real Estate Appraisal (PAREA) in place of supervision. The course costs have not been

published as it is in beta testing.

Real Estate Appraiser Examining Board

	Iowa	South Dakota	Minnesota	Illinois	Missouri	Nebraska	Kansas
Associate Appraiser - Initial	\$200	\$420	\$180	\$225	\$300	\$600	\$450
Associate Appraiser - Renewal	\$200	\$350	\$130	\$300	\$300	\$550	\$400

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. It takes roughly .5 of an FTE to review application materials for the board overall not exclusive to the associate application. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a applicant/licensee is disciplined in another state, the application may be forwarded to the discipline committee for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

In April of 2023, the board was reviewed by the Appraisal Subcommittee (ASC) to decrease barriers to entry into the appraisal profession. They noted that Iowa was more stringent than required in four areas. The board reviewed the report and agreed to decrease three of the four instances to which the ASC found Iowa to be more stringent. The barriers for the associate appraiser the board wishes to remove from the current rule is to allow 100% demonstration appraisals, supervisors be licensed for 3 years in any jurisdiction, and to not require a diversity of experience. This means that an associate appraiser may complete the PAREA program which contains all demonstration appraisals, the board will still require a work product review which is in chapter 6 to ensure the associate appraiser is ready to be approved for the certified exam. The removal of the requirement a supervisor must be licensed in Iowa for 3 years received a number of waivers making the rule obsolete. The diversity of experience removal will allow associate appraisers to specialize in an area such as agricultural. The board felt that requiring an associate to demonstrate diversity would result in non complaint Uniform Standards of Professional Appraisal Practice (USPAP) reports.

The following barrier that requires a majority of experience be completed within the state of Iowa is in Iowa Statute 543D.9. The board has added this to the section below regarding statutory change recommendations.

The fourth item the ASC found to be more stringent in Iowa was the Licensed Residential credential. The board agreed that Iowa does not wish to add the credential.

This rule is required by statute. The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 4.1 un-necessary, redundant, duplicative
- 4.2 un-necessary, redundant, outdated
- 4.4 un-necessary, redundant
- 4.5 outdated, redundant
- 4.6 redundant, outdated

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 4
ASSOCIATE REAL ESTATE APPRAISER

193F—4.1(543D) Qualifications to register as an associate appraiser.

4.1(1) Education.

a. A person applying for registration as an associate appraiser will, at a minimum, satisfactorily complete all AQB-approved, qualifying education courses needed under the AQB criteria specifying educational standards applicable for registration as an associate appraiser.

4.1(3) Background check. A state and national criminal history check will be performed on any new associate appraiser applicant. The applicant will authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant.

4.1(4) Application process. After completing the AQB associate appraiser obligations, a person applying as an associate appraiser can then access the application through the board's online system. A sufficient application within the meaning of Iowa Code section 17A.18(2) will include all information as outlined in the board's online system and be accompanied by the applicable fee.

4.1(5) Registration denial. The board may deny an application for registration as an associate appraiser on any ground identified in 193F—subrule 3.4(1) or on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 7.

193F—4.2(543D) Supervision of associate appraisers.

4.2(1) Direct supervision. An associate appraiser is subject to the direct supervision obligations set by the AQB

criteria.

4.2(2) Supervisor registration. An associate appraiser, other than a PAREA associate, will identify all supervisors by whom the associate will be supervised through the board’s online system and will promptly notify the board in the event of any change in supervisors. An associate appraiser, other than a PAREA associate, who does not have at least one approved active supervisor meeting the supervision obligations will be placed in inactive status until such time as the associate finds a supervisor. Associate appraisers wishing to maintain an inactive license have to continue to renew on a biennial basis in accordance with rule 193F—4.3(543D).

4.2(3) Scope of practice. The scope of practice for an associate appraiser is set by the AQB criteria..

4.2(4) Logs. An associate appraiser will maintain an appraisal experience log consistent with the AQB criteria.

193F—4.3(543D) Renewal of associate appraiser registration. An associate appraiser registration has to be renewed on a biennial basis as more fully described in 193F—Chapter 9. An associate appraiser is subject to the same continuing education obligations applicable to a certified appraiser as a precondition for renewal. Continuing education obligations are outlined in 193F—Chapter 11.

193F—4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser.

4.4(1) Associate classification. The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification.

4.4(2) Progress reports. In order to assess an associate appraiser’s progress toward certification, the board may request periodic progress reports from the associate appraiser and from the associate appraiser’s supervisory appraiser or appraisers.

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real estate appraiser or as a certified general real estate appraiser as set by the AQB criteria, and consistent with the Iowa Code chapter 543D and rules of the board.

193F—4.6(272C,543D) Reinstating or reactivating an associate registration.

4.6(1) In order to reinstate or reactivate an associate registration that has lapsed or been placed in inactive or retired status, the applicant has to complete all continuing education obligations for reinstatement as required by board rule and the AQB criteria. Any qualifying education course taken under this rule as continuing education will also apply as qualifying education toward certification. If the applicant has completed all qualifying education prior to applying to reinstate a lapsed, retired, or inactive associate registration, the applicant may use any approved continuing education course as required by board rule and the AQB criteria.

4.6(2) If an appraiser’s registration is placed in inactive status as a result of the appraiser’s failure to maintain at least one approved active supervisor meeting the obligations of 193F—Chapter 15 pursuant to subrule 4.2(2), the applicant will complete the continuing education in accordance with subrule 4.6(1) in order to reinstate the associate registration but is not obligated to pay any reinstatement fee otherwise due so long as the associate has not renewed the registration to inactive status or allowed the registration to lapse prior to reinstating or reactivating the registration.

193F—4.7(543D) Supervisory Appraiser Requirements.

4.7 Iowa follows the AQB criteria and USPAP concerning supervisory appraiser requirements.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	889
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	54

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 29, 2023	Total Rule Count:	8
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	5	Iowa Code Section Authorizing Rule:	193F.6 (after change)
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the chapter is to set minimum standards for entry for certified residential real property appraisers. Iowa residents, licensees and employers benefit from the rule as it articulates the needed education, examination, and training needed to become a certified residential appraiser. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency.

While this information is important, it is nearly identical to the language in 193F-6. The board proposes that Chapter 5 is rescinded and merged with Chapter 6.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related. Licensees are responsible for costs associated with obtaining a certified appraiser license (the report for Chapter 6 outlines the costs.)

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that appraisers are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified appraisers.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board's licensing of certified real estate appraisers is largely directed by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. Most of the language is nearly identical to the language proposed in 193F-6.

- 5.1 redundant
- 5.2 redundant
- 5.3 redundant
- 5.4 redundant
- 5.5 redundant
- 5.6 redundant
- 5.7 redundant
- 5.8 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F-5: Rescind in full; text being moved to 194F-6.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	2989
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	56

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 21, 2023	Total Rule Count:	9 for chapter 6 (8 for chapter 5 which is being merged with 6)
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	6 (merged chapter 5 into this chapter)	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 6 establishes the pathway for those seeking certified real estate appraiser licensure in Iowa. The benefit is to allow individuals an avenue to provide services to Iowans on an ongoing basis as a certified appraiser. This rule sets forth information regarding education requirements, examinations, supervised experience, work product review process, Practical Applications for Real Estate Appraisal (PAREA), and the upgrade process for a certified residential real estate appraiser to a certified general real estate appraiser.

Is the benefit being achieved? Please provide evidence.

The Board’s licensing of certified real estate appraisers is largely directed by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. In 2023, Iowa processed 15 conversions as of 8/21/2023 which is the process a associate real estate appraiser advances to a certified real estate appraiser after they sit for the federally required real estate appraiser exam.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.6. Licensees are responsible for costs associated with obtaining a certified appraiser license.

The qualifying education requirement for a certified residential real estate appraiser is approximately \$3,920, which \$1,125 was previously paid for the associate/trainee license, though the Appraisal Institute. Other providers are available and I calculated the cost from the most commonly used provider by Iowa appraisers. The Iowa licensee fee is \$200 for a biennial license with a background check of \$51, if required. The work product review fee of \$300 which may be higher if more reports are needed due to non compliance. The required examination application fee is \$150 paid to the state and \$145 paid to the qualified testing company for the exam. The national registry fee is collected at the time of licensure and renewal with a total of \$40 per year. Total approximate cost is \$4,846. The certified residential real estate appraiser certification requires either a bachelors degree, associate degree in specific course work, 30 hours of college level courses 10 specific subject matter areas, and/or 30 semester College Level Examination

Program (CLEP) in 8 specific subject matter areas.

The qualifying education requirement for a certified general real estate appraiser is approximately \$5,445, which \$1,125 was previously paid for the associate/trainee license, though the Appraisal Institute. Other providers are available and I calculated the cost from the most commonly used provider by Iowa appraisers. The Iowa licensee fee is \$200 for a biennial license with a background check of \$51, if required. The work product review fee of \$650 which may be higher if more reports are needed due to non compliance. The required examination application fee is \$150 paid to the state and \$145 paid to the qualified testing company for the exam. The national registry fee is collected at the time of licensure and renewal with a total of \$40 per year. Total approximate cost is \$6,721. The certified general real estate appraiser certification requires either a bachelors degree.

The University Northern Iowa offers an approved Bachelor of Arts in Real Estate program which would lower the cost of the required qualifying education. The qualifying education requirement would then be \$400 for both the certified residential and certified general real estate appraiser. The estimated cost of the degree from UNI is \$41,300.

The chart below indicates the initial and renewal licensure investment for certified general and certified residential real estate appraisers. In 2021, the certified real estate appraiser initial and renewal fee was lowered from \$310 to \$200. Iowa's initial licensure application process is similar to those implemented by other state boards of real estate appraisers although the frequency of the renewals varied I made the chart to reflect a 2 year renewal cycle.

Real Estate Appraiser Examining Board

	Iowa	South Dakota	Minnesota	Illinois	Missouri	Nebraska	Kansas
Certified General License - Initial	\$280	\$880	\$260	\$315	\$300	\$680	\$530
Certified Residential - Initial	\$280	\$830	\$260	\$315	\$300	\$680	\$530
Certified General - Renewal	\$280	\$780	\$210	\$530	\$300	\$630	\$480
Certified Residential - Renewal	\$280	\$750	\$210	\$530	\$300	\$630	\$480

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. It takes roughly .5 of an FTE to review application materials for the board overall not exclusive to the associate application. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a applicant/licensee is disciplined in another state, the application may be forwarded to the discipline committee for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The promulgated rule changes reflect a less restrictive practice for the State of Iowa. The board also included a chart regarding AQB requirements making it easier to comprehend.

In April of 2023, the board was reviewed by the Appraisal Subcommittee (ASC) to decrease barriers to entry into the appraisal profession. They noted that Iowa was more stringent than required in four areas, some are for associates and due to the fact that supervisors are certified appraisers I included them all. The board reviewed the report and agreed to decrease three of the four instances to which the ASC found Iowa to be more stringent. The barriers the the board wishes to remove from the current rule is to allow 100% demonstration appraisals, supervisors be licensed for 3 years in any jurisdiction, and to not require a diversity of experience. This means that an associate appraiser may complete the PAREA program which contains all demonstration appraisals, the board will still require a work product review which is in chapter 6 to ensure the associate appraiser is ready to be approved for the certified exam. The removal of the requirement a supervisor must be licensed in Iowa for 3 years received a number of waivers making the rule obsolete. The diversity of experience removal will allow associate appraisers to specialize in an area such as agricultural. The board felt that requiring an associate to demonstrate diversity would result in non complaint Uniform Standards of Professional Appraisal Practice (USPAP) reports.

The following barrier that requires a majority of experience be completed within the state of Iowa is in Iowa Statute 543D.9. The board has added this to the section below regarding statutory change recommendations.

The board has sought to simplify the rules text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, There were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 6.1
- 6.2
- 6.3
- 6.4
- 6.5
- 6.6
- 6.7
- 6.8
- 6.9

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 6
CERTIFIED REAL ESTATE APPRAISER

193F—6.1(543D) General.

6.1(1) Iowa Code chapter 543D regulates appraisal services performed in this state when appraiser certification is needed under federal law. Iowa recognizes two types of certification – certified residential real estate appraiser and certified general real estate appraiser. Iowa does not provide licenses for the “licensed real estate appraiser” category recognized under federal law. See 12 C.F.R. section 34.43. Therefore, appraisal services involving federally-related transactions in the state have to be performed by an Iowa certified real estate appraiser with the appropriate certification for the property at issue, or by a person holding an appropriate license or certification from a foreign jurisdiction who also has been issued a temporary practice permit under Iowa Code section 543D.11(2).

5.1(2) The chart below outlines the differences between two certifications issued by the board.

	Certified Residential Real Estate Appraiser	Certified General Real Estate Appraiser
Property type that can be appraised	Residential units ranging from one to four tenants	All real estate, including commercial and agricultural
Qualifying education core curriculum	200 hours	300 hours
Qualifying education	Bachelor's degree or higher from an accredited college, junior college, community college, or university; or, an associates degree in specific fields, 30 semester hours of college-level course working in specific areas, 30 semester hours of CLEP examinations, or any combination CLEP/college-level covering appropriate hours and topics.	Bachelor's degree or higher from an accredited college, junior college, community college, or university.
Experience	1,500 hours accumulated in no less than 12 months.	3,000 hours with a minimum of 1,500 hours general accumulated in no less than 18 months.
Examination	Certified residential real property appraiser examination or the certified general real property	Certified general real property appraiser examination.

6.1(2) All appraisers performing services regulated by the board are obligated to comply with USPAP.

193F—6.2(543D) Education. Applicants for certification by the board have to meet the educational obligations of the AQB criteria.

193F—6.3(543D) Examination. The prerequisites for taking the AQB-approved examination are collegiate education, experience, work product review, and completion of all creditable course hours as specified in this chapter. The core criteria hours, collegiate education, and all experience have to be completed as specified in this chapter. Equivalency will be determined in accordance with the AQB. USPAP qualifying education will be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified appraiser credential in active status and good standing.

6.3(1) In order to qualify to sit for the appropriate certified real estate appraiser examination, the applicant has to complete the board's application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

a. A sufficient application within the meaning of Iowa Code section 17A.18(2) has to:

(1) Be through the board's online system;

(2) Be signed by the applicant, be certified as accurate, or display an electronic signature by the applicant if submitted electronically;

(3) Be fully completed;

(4) Reflect, on its face, full compliance with all applicable continuing education obligations; and

(5) Be accompanied by the fee specified in 193F—Chapter 12.

b. The core criteria, collegiate education, experience, and work product review have to be completed and documentation submitted to the board at the time of application to sit for the examination.

6.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results.

6.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

6.3(4) An applicant has to supply a true and accurate copy of the original examination scores when applying for certification.

6.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant has to retake and pass the examination. This obligation applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

193F—6.4(543D) Supervised experience needed for initial certification. Except as otherwise permitted herein, all experience needed to obtain certification has to be obtained consistent with Iowa Code section 543D.9.

6.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs approved by federal authorities (e.g., PAREA) will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a real estate appraiser.

6.4(2) Exceptions. Applicants for certified real estate appraiser certification in Iowa may utilize experience obtained in the absence of registration as an associate real estate appraiser under the following circumstances.

a. Subject to any obligations or limitations established by applicable federal authorities, including the AQB and ASC, or applicable federal law, rule, or policy, hours qualifying for experience in any jurisdiction will be considered qualifying hours for experience in Iowa without board approval or authorization, as long as the applicant is able to establish by clear and convincing evidence all of the following:

(1) The qualifying hours obtained were completed in another jurisdiction under the direct supervision of an appropriate active certified real estate appraiser in that jurisdiction in accordance with the AQB and the jurisdiction's laws, rules, or policies.

(2) The nature of the experience attained in another jurisdiction is qualitatively and substantially equivalent to the experience an associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser in this state.

193F—6.5(543D) Demonstration of experience. The board applies the dictates of Iowa Code section 543D.9 and the AQB

criteria in **determining whether the** experience necessary for certification has been met.

6.5(1) An applicant is obligated to appear before the board to supplement or verify evidence of experience.

6.5(2) The board may inspect documentation relating to an applicant's claimed experience.

193F—6.6(543D) Work product review.

6.6(1) An applicant will submit a complete appraisal log at the time of application for examination and experience consistent with the AQB criteria. Three appraisal reports will be selected by the board from the log. The applicant will submit electronically one copy of each report and work file for each of the selected appraisals along with the appropriate fee. The work product submission will not be redacted by the applicant. The board reserves the right to request additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product.

6.6(2) The board will treat all appraisals received as confidential pursuant to USPAP. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit demonstration appraisals if based on factual information and clearly marked as demonstration appraisals.

6.6(3) An applicant seeking original certification as a certified general real estate appraiser will submit one residential appraisal and two nonresidential appraisals for review. An applicant seeking an upgrade certification to a certified general real estate appraiser will submit two nonresidential appraisals for review.

6.6(4) The board will submit the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

6.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser will represent the results of work product review in communications with a client or in marketing to potential clients in a manner that falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply may be grounds for discipline.

6.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

6.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, will be entitled to a contested case hearing. Notice of denial will specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

6.6(8) If probable cause exists, the board may open a disciplinary investigation based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real estate appraiser seeking an upgrade to a certified general real estate appraiser, or where the applicant is uncertified and is working under the supervision of a certified real estate appraiser who cosigned the appraisal report.

6.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. Work product submitted for educational purposes only will not result in disciplinary action on either the associate appraiser or the associate appraiser's supervisor so long as the appraisal review did not reveal negligent or egregious errors or omissions. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 12.

6.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

193F—6.8(543D) Practical Applications of Real Estate Appraisal (PAREA). PAREA utilizes simulated experience training and serves as an alternative to the traditional supervisor/trainee experience model. PAREA programs have to be AQB-approved and meet all the applicable AQB criteria. An applicant who meets the prerequisites of a PAREA program prior to commencement of training and who receives a valid certificate of completion from an AQB-approved PAREA program, has met the allotted experience obligations as outlined in the AQB criteria for that specific PAREA program. PAREA program experience allotment will be awarded per the AQB criteria at the time of program completion.

Applicants claiming PAREA experience credit are not allowed partial credit for PAREA training. 193F—6.1(543D) through 193F—6.7(543D).

193F—6.9(543D) Upgrade from a certified residential real estate appraiser to a certified general real estate appraiser.

To upgrade from a certified residential real estate appraiser to a certified general real estate appraiser, an applicant has to satisfy all obligations of this rule, which include work product review and a state and national criminal history check as provided in Iowa Code section 543D.22.

6.9(1) Education.

a. *Collegiate education.* Certified residential real estate appraisers have to satisfy the college-level education obligations of the AQB.

b. *Core criteria.* In addition to the formal education and core criteria educational obligations originally needed to obtain a certified residential credential, an applicant has to meet the current AQB obligations before taking the AQB-approved examination.

6.9(2) Examination. An applicant has to satisfy the examination obligations

6.9(3) Supervision and experience.

a. *Experience.* An applicant has to satisfy all of the experience obligations while in active status and in accordance with AQB criteria.

b. *Supervision.* Subject to applicable exceptions, all nonresidential experience obtained and applied toward obtaining a certified general credential as part of the upgrade process will be performed under the tutelage of a certified general real property appraiser, subject to AQB required coursework.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	2080
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	83

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements

for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.”

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 7, 2023	Total Rule Count:	3
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	7 Disciplinary Actions Against Certified Associate Appraisers	Iowa Code Section Authorizing Rule:	543D, 272C
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 7 establishes the disciplinary actions for the protection and well-being of those persons who may rely upon registered associate appraisers or certified appraisers for the performance of real property appraisals within the state and for clients in the state. The chapter also establishes the standards of practice that governs all real property appraisal activities required by Uniform Standards of Professional Appraisal Practice (USPAP). The intended benefit of this rule is to ensure the public and licensees are aware of the disciplinary grounds against licensees.

Is the benefit being achieved? Please provide evidence.

The Board’s investigative process is largely dictated by Iowa Code 272C. The board believes that the benefit of the rule is being achieved as it provides the public and licensees information to ensure that they understand the grounds for discipline. Also, these administrative rules allow the board the authority to review and investigate alleged acts or omissions of registered associate appraisers or certified appraisers.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.7. Licensees are responsible for costs associated with disciplinary actions. There could be additional costs to a licensee if they retain counsel to represent them during the disciplinary action process.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including complaints and investigations. The time needed to manage this provision is generally in the form of written and verbal correspondence with licensees, complainants and other pertinent parties, gathering appraisal reports, conducting interviews as needed, and authoring investigative reports. This information is then provided to the board at board meetings where costs are incurred through per diem (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings. If a case is determined by the discipline committee to need a higher level review by an outside expert there is a cost to the agency in order to conduct a peer review, almost 90% of the complaints for the real estate appraisal profession require a Standard 3/4 review be performed by a peer reviewer. There is 1 FTE assigned to investigate complaints, with support from executive officer. Staff salaries to support the

work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes

7.1 duplicative, un-necessary, inconsistent

7.2 un-necessarty

7.3 redundant, duplicative

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 7
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

193F—7.1(17A,272C,543D) Disciplinary authority. The board is empowered to regulate the real estate appraiser profession for the protection and well-being of the public trust. . To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of applicants and licensees and to address disciplinary concerns under Iowa law..

193F—7.2(543D) Standards of practice. All registered associate appraisers and certified real estate appraisers will comply with the USPAP edition applicable to each appraisal assignment.

193F—7.3(17A,272C,543D) Grounds for discipline. The board may initiate disciplinary action against a registered associate appraiser or a certified real estate appraiser based on any one or more of the following grounds:

7.3(1) Any violation of Iowa Code provision that authorizes imposition of licensee sanctions;

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;
- b. Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;
- c. Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

7.3(2) Professional incompetence. Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.
- e. A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's COMPETENCY RULE.

7.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include but are not limited to:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Falsification of business records or appraisal logs through false or deceptive representations or omissions.
- d. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.
- e. Making any false or misleading statement in support of an application for registration or certification submitted by another.
- f. Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.
- g. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive or retired status, or has lapsed.
- h. Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.
- i. Fraud in representations as to skill or ability.
- j. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

7.3(4) Unethical, harmful or detrimental conduct. Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

- a. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.
- b. Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in USPAP's ETHICS RULE.
- c. Aiding or abetting any unlawful activity for which a civil penalty can be imposed under 193F—16.2(543D).

7.3(5) Lack of proper qualifications.

- a. Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education for registration or certificate renewal.
- b. Acting as a supervisor without proper qualification, as provided in 193F—15.3(543D).
- c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.
- d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.
- e. Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.
- f. Practicing outside the scope of a certification, or outside the scope of a supervisor's certification.

7.3(6) Negligence by the registrant or certificate holder in the practice of the profession. Negligence by the registrant or certificate holder in the practice of the profession includes but is not limited to:

- a. A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.
- b. Neglect of contractual or other duties to a client.

7.3(7) Professional misconduct.

- a. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.
- b. Engaging in any conduct that subverts or attempts to subvert a board investigation.
- c. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court will not negate this obligation; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action will be vacated.
- d. A violation of Iowa Code section 543D.18.
- e. A violation of Iowa Code section 543D.20 (limitations on persons assisting in the development or reporting of a certified appraisal).
- f. Failure to retain records as provided in Iowa Code section 543D.19.
- g. Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

7.3(8) Willful or repeated violations. The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

7.3(9) Failure to report.

- a. Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.
- b. Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.
- c. Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.
- d. Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.
- e. Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.
- f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 30 calendar days of such change.
- g. Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

7.3(10) Failure to comply with board order. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

7.3(11) Conviction of a crime.

- a. Conviction, in this state or any other jurisdiction, of any felony offense that directly relates to the profession, or of any crime which is substantially related to the qualifications, functions, duties or practice of a person developing or

communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others will be deemed directly related to the practice of real property appraising. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another jurisdiction will be conclusive evidence of the conviction. "Conviction" includes any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, or not entered, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction will be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which the conviction occurred, or if the offense is committed in this state, the offense would be a felony, without regard to its designation elsewhere. An offense directly relates to the profession if either:

- (1) The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or
 - (2) The circumstances under which an offense was committed are circumstances customary to the profession.
- b.* Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1861
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	11

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

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 543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

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which have received the preapproval

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 7, 2023	Total Rule Count:	17
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	8 Investigations and Disciplinary Procedures	Iowa Code Section Authorizing Rule:	543D.17
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 8 established the provisions for investigatory and disciplinary procedures that the real estate appraiser examining board has authority over. The benefit is to clearly specify to all parties their rights and responsibilities during the investigation and discipline process.

Is the benefit being achieved? Please provide evidence.

The Board’s investigative process is largely dictated in Iowa Code 272C. The board believes that the benefit of the rule is being achieved as it provides the public and licensees information to ensure that they understand their responsibilities and rights around complaints and investigations. In 2022, the board reviewed over 50 cases which resulted in 38 formal complaints and 11 consent orders for 13 of those cases.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.8. Licensees are responsible for costs associated with investigations and disciplinary procedures. There could be additional costs to a licensee if they retain counsel to represent them during the course of the investigation, the board finds this is seldom done.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including complaints and investigations. The time needed to manage this provision is generally in the form of written and verbal correspondence with licensees, complainants and other pertinent parties, gathering reports, conducting interviews as needed, and authoring investigative reports. This information is then provided to the board at board meetings where costs are incurred through per diem (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings. If a case is determined by the Board to need a higher level review by an outside expert there is a cost to the agency in order to conduct a peer review. Nearly all investigations in the real estate appraiser board require peer review. A peer review fee of \$425 for a residential report and \$900 for a commercial report for each Standard 3/4 Review. In the event the peer reviewers reports show the appraisal report does not meet compliance set by the ASC the board requests additional reports at an added expense to the agency. In the

event that these additional reports are returned non complaint the licensee starts to incur the fee which is indicated in the order. There is 1 FTE assigned to investigate complaints (which is shared with all the PL Banking board) with support from executive officer. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of investigations and complaints are to address allegations against licensees, enabling the board to make informed decisions regarding that licensee. Eliminating complaints and investigations would cause harm to the public allowing licensee's negative actions to go unchecked.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The less restrictive alternate to accomplish the benefit of this rule would be accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. A number of licensees have requested this option and the board feels that without the proper statement of charges it would not protect the public as this would not be required to be reported to the ASC National Registry which is what is used to send daily reports to every state regarding changes (such as discipline, lapsing, etc.) of a certified licensee.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 8.1 duplicative, un-necessary
- 8.2 outdated
- 8.3 un-necessary
- 8.5 outdated, redundant, duplicative
- 8.6 un-necessary
- 8.7 un-necessary, duplicative
- 8.8 un-necessary, duplicative
- 8.9 un-necessary, duplicative
- 8.10 un-necessary, duplicative, obsolete
- 8.11 un-necessary
- 8.12 un-necessary
- 8.13 un-neccessary
- 8.17 duplicative

RULES PROPOSED FOR REPEAL (list rule number[s]):

8.3
8.7
8.13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 8
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

193F—8.1(272C,543D) Disciplinary action. The real estate appraiser examining board has authority under applicable law to impose discipline for violations of law.

193F—8.2(17A,272C,543D) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated the licensee's legal obligations under the Iowa code or board rule.

193F—8.3(17A,272C,543D) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193F—8.4(272C,543D) Complaints. Written complaints need to be submitted to the board through the board's online system. The board may also initiate its own complaints.

8.4(1) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

8.4(2) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

8.4(3) Initial complaint screening. Tips that are not complaints will be evaluated by the disciplinary committee but may not be assigned a case number or further investigated. Complaints that have been submitted and assigned a case number will be referred to the discipline committee. Final decisions on complaints will be made by the board.

193F—8.5(272C,543D) Case numbers. Whether based on written complaint received by the board or complaint initiated by the board, all complaint files will be tracked by a case numbering system. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193F—8.6(17A,272C,543D) Investigation procedures.

8.6(1) Disciplinary committee. The board chairperson will annually appoint two to three members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board's executive officer, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee will not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

8.6(2) Screening of complaints. All complaints presented to the board will be screened, evaluated and, where appropriate, investigated.

193F—8.7(17A,272C,543D) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee any opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

8.7(1) Because disciplinary investigations are confidential, only the licensee's legal representative may attend the information discussion with the board.

8.7(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, licensees who desire to attend an informal discussion waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

8.7(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

8.7(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion.

193F—8.8(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint.

193F—8.9(17A,272C,543D) Closing complaint files.

8.9(1) Grounds for closing. The board may close a complaint file, with or without prior investigation.

8.9(2) Cautionary letters. The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

8.9(3) Reopening closed complaint files. The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint. Complaint files may also be reopened when a complaint has been previously closed due to the lapse of the licensee's license.

193F—8.10(17A,272C,543D) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified will not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, three members of the board constitute a quorum of the remaining five board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5.

193F—8.11(543D) Decisions. The board will make findings of fact and conclusions of law, and set forth the board's decision, order, or both in the case. The board's decision may include, without limitation, any of the following outcomes, either individually or in combination:

1. Dismissing the charges;
2. Suspending or revoking the appraiser's certification or associate's registration as authorized by law;
3. Imposing civil penalties, the amount to be set at the discretion of the board but not exceeding \$1000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 543D.17 and chapter 272C or for any repeat offenses;
4. Imposing a period of probation, either with or without conditions;
5. Obligating the licensee to undergo reexamined;
6. Obligating the licensee to take additional professional education, reeducation, or continuing education;
7. Issuing a citation and a warning;
8. Imposing desk review of the appraiser's work product;
9. Issuing a consent order either with or without conditions;

10. Imposing consultation with one or more peer reviewers;
11. Revoking an appraiser's eligibility to supervise;
12. Compelling submission of monthly logs;
13. Placing limitations on a licensee's practice, such as removing a licensee's authority to act as an instructor;
14. Imposing any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

193F—8.12(272C,543D) Mitigating and aggravating factors. Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include but are not limited to:

8.12(1) History and background of respondent.

- a. Whether the respondent was a registered associate appraiser or a certified appraiser at the time of the violation.
- b. Prior disciplinary history or cautionary letters.
- c. Length of certification or registration at the time of the violation.
- d. Disciplinary history of current or prior supervisor.
- e. Degree of cooperation with investigation.
- f. Extent of self-initiated reform or remedial action after the date of the violation.
- g. Whether the volume or geographic range of the respondent's practice is, or was at the time of the violation, reasonable under the circumstances.
- h. Whether the respondent practiced with a lapsed, inactive, retired, suspended, revoked, or surrendered certificate or registration.

8.12(2) Nature of violations, not limited to:

- a. Length of time since the date of the violation.
- b. Whether the violation is isolated or recurring.
- c. Whether there are multiple violations or appraisals involved.
- d. Whether the violation is in the nature of an error or situational carelessness or neglect, or reflects a more fundamental lack of familiarity with applicable appraisal methodology or standards.
- e. Indicia of bad faith, false statements, deceptive practices, or willful and intentional acts, whether within the circumstances of the violation or in the course of the board's investigation or disciplinary proceeding.
- f. Evidence of improper advocacy or other violation of the USPAP ethics rule or of Iowa Code section 543D.18 or 543D.18A(1).
- g. The clarity of the issue or standard involved.
- h. Whether the respondent practiced outside the scope of practice authorized by respondent's certification or registration.
- i. Whether the violation relates to the respondent's supervisory role, the respondent's individual appraisal practice, or both.

8.12(3) Interest of the public, not limited to:

- a. Degree of financial or other harm to a client, consumer, lending institution, or others.
- b. Risk of harm, whether or not the violation caused actual harm.
- c. Economic or other benefit gained by respondent or by others as a result of the violation.
- d. Deterrent impact of discipline.
- e. Whether the respondent issued a corrected appraisal report when warranted.

193F—8.13(272C,543D) Voluntary surrender. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

193F—8.14(272C,543D) Reinstatement. The following provisions apply to license reinstatement proceedings:

8.14(1) The board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, board members or staff before whom the applicant appears.

8.14(2) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193F—8.14(543D).

8.14(3) The board will not grant an application for reinstatement when the initial order that revoked, suspended or placed limitations on the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a. All terms of the sentencing or other criminal order have been fully satisfied;
 - b. The applicant has been released from confinement and any applicable probation or parole; and
 - c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.
- 8.14(4)** A state and national criminal history check may be performed on any applicant applying to reinstate registration or credential consistent with Iowa Code section 543D.22.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	2134
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	52

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
 543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.”

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 7, 2023	Total Rule Count:	7
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	9 Renewal, Expiration and Reinstatement of Certificates and Registrations, Retired Status, and Inactive Status	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 9 establishes the provisions for those seeking to renew, reinstate and/or change status of their appraiser license in Iowa. The benefit is to allow individuals to renew or reinstate licensure in the State of Iowa as required by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation (TAF).

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to renew or reinstate in the profession. In 2023, Iowa had 585 renewals for both active and inactive status and 4 reinstatement's.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.9. Licensees are responsible for costs associated with renewals and reinstatement's. The chart below indicates the state's renewal fees and the number of continuing education hours required. The chart also indicates the cost for other states as well as their continuing education requirements. Continuing education is required for those that are seeking active status as the board has an the option for inactive status as well as a retired status.

Estimation of the cost for continuing education is \$535.

Real Estate Appraiser Examining Board

	Iowa	South Dakota	Minnesota	Illinois	Missouri	Nebraska	Kansas
Certified General - Renewal	\$280	\$780	\$210	\$530	\$300	\$630	\$480
Certified Residential - Renewal	\$280	\$750	\$210	\$530	\$300	\$630	\$480
Associate Appraiser - Renewal	\$200	\$350	\$130	\$300	\$300	\$550	\$400
Continuing Education Requirements (hrs)	28	28	28	29	30	28	28

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. With the current online system the board uses more than 95% of the renewals are automatically approved, the majority of the staff time during renewals is technical support. It takes roughly .5 of an FTE to

review application materials for the board overall not exclusive to the renewal/reinstatement applications. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The current rule indicates that a licensee must be retired in all jurisdictions to apply for retired status in Iowa. In the promulgated rule change the board agreed to remove this restriction.

The board also agreed that the biennial renewal set up based on the applicants last name restricted the amount of time a licensee was valid during the initial license period. This in turn could cost some applicants more money as the license could expire in not only months but weeks or days. In the promulgated rule change the licensee would be valid for at least a minimum of 1 year 1 day depending on the day of licensure.

The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

9.1 outdated, obsolete

9.2 outdated, obsolete

9.3 outdated, obsolete, redundant, un-necessary, duplicative

9.4 outdated, obsolete, duplicative, clarifying to be compliant with federal guidelines

9.5 inconsistent, redundant, un-necessary

9.6 obsolete, outdated, inconsistent language

9.7 outdated, un-necessary

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 9
RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, RETIRED STATUS, AND INACTIVE STATUS

193F—9.1(272C,543D) Biennial renewal.

9.1(1) Licensees have to be renewed on a biennial basis or they lapse.

9.1(2) Persons licensed before June 30, 2024, will maintain their biennial renewal timelines. For licensees initially licensed after June 30, 2024, all licenses will expire biennially on June 30. Example: Certified general licensee obtains licensure on May 25, 2025. License will expire on June 30, 2026, with the first year being a partial year.

9.1(3) An application to renew a certificate or registration has to be submitted through the board's online system.

9.1(4) All continuing education claimed on a biennial renewal needs to have been acquired during the renewal period. In addition, all continuing education claimed on a biennial renewal has to have been taken and completed prior to submission of the renewal application.

193F—9.2(272C,543D) Notices.

9.2(1) The board may send renewal notices to licensed appraisers. However, it is the licensee's responsibility to renew timely.

9.2(2) Certified and associate appraisers have to ensure that their contact information on file with the board office is current and that the board is notified within 30 days of any changes.

193F—9.3(272C,543D) Renewal procedures.

9.3(1) *Date of filing.* Certified and associate appraisers have to file a complete renewal application with the board by the June 30 deadline in the biennial renewal year. An application will be deemed filed on the date of board receipt, the date of electronic submission or, if payment is mailed, the date postmarked but not the date metered.

9.3(2) *Continuing education.* An applicant for renewal has to report the applicant's compliance with the continuing education obligations provided in 193F—Chapter 11.

9.3(3) *Background disclosures.* An applicant for renewal has to disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

9.3(4) *Insufficient applications.* The board will reject applications that are insufficient.

9.3(5) *Resubmission of rejected applications.* The board will promptly notify an applicant of the basis for rejecting an insufficient renewal application. Applicants may correct deficiencies and resubmit an application. Resubmitted applications are deemed received on the date of electronic submission. . .

9.3(6) *Administrative processing not determinative.* The administrative processing of an application to renew a certificate or registration will not prevent the board from subsequently challenging the application based on new information, such as after-acquired information of continuing education violations.

9.3(7) *Denial of timely and sufficient application to renew.* If grounds exist to deny an application to renew, the board will send notification to the applicant stating the grounds for denial.

193F—9.4(272C,543D) Failure to renew.

9.4(1) The certificate or registration of a certified or associate appraiser lapses unless the appraiser submitted a timely and sufficient renewal application by the expiration date.

9.4(2) Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed. Any violation of this subrule will be grounds for discipline.

9.4(3) *Reinstatement.* The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided by board rule; and
- b. Paying the current renewal fee as provided by board rule; and

- c. Paying the ASC National Registry fee as provided by board rule; and
- d. Completing a state and national criminal history check as required by law; and
- e. Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and
- f. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's license had lapsed. The statement will describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that federal or state law, rule, or policy mandate to be performed by a certified real estate appraiser.

9.4(4) Reinstating associate appraisers are to follow special continuing education obligations. The board seeks to ensure that associate appraisers make progress toward full completion of all qualifying education needed for eventual certification, as provided in the rules. As a result, an associate appraiser applying to reinstate a registration that has been lapsed for 12 months or longer will complete the most recent 7-hour USPAP course, and only qualifying education toward the continuing education needed for reinstatement, until all qualifying education has been completed. If the applicant has already completed all qualifying education or has to have continuing education hours beyond those needed to fully complete all qualifying education, the applicant may use any approved continuing education course in addition to the mandatory 7-hour USPAP course.

193F—9.5(272C,543D) Inactive status.

9.5(1) General purpose. A licensee who is not engaged in Iowa in any practice licensed by the board may allow a license to lapse or register as inactive. The board will continue to maintain a database of persons registered as inactive as well as those whose license has lapsed. A person registered in inactive status is not allowed to perform services in this state regulated by the board. Continuing education is not required for licensees in inactive status.

9.5(2) Eligibility. A person holding an active license may apply on forms through the board's online system to register as inactive if the person is not engaged in appraisal practice in the state of Iowa for which a certificate or associate registration is needed. Inactive status is not available to an individual who has had a board-issued license revoked or suspended. A person seeking inactive status may be actively engaged in the practice of real estate appraising in another jurisdiction.

9.5(3) Affirmation. The application form will contain a statement in which the applicant affirms that the applicant will not engage in any conduct that would require an Iowa license without first complying with all rules governing reactivation to active status. A person in inactive status may reactivate to active status at any time pursuant to subrule 9.5(6).

9.5(4) Renewal. A person registered as inactive will need to renew biennially. Licensees in inactive status may continue to renew in inactive status. Active licensees may register in inactive status if, for instance, they have not completed all continuing education obligations needed for active status renewal. Any licensee in inactive status must satisfy all outstanding continuing education obligations before reinstating to active status. Continuing education obligations do not accrue during the period of inactive registration.

9.5(5) Grounds for discipline. Licensees are not authorized to practice or to hold themselves out to the public as board-licensed appraisers during the period of time that the licensee is in retired or inactive status. Any violation of this subrule will be grounds for discipline.

9.5(6) Reactivation. A person registered as inactive will apply to reactivate to active status prior to engaging in any practice in Iowa that necessitates active licensure by the board. An application to reactivate to active status will be through the board's online system. Prior to reactivation to active status, the applicant has to complete all education that would have been needed had the applicant been on active status, including the required courses set by the AQB criteria. All such continuing education has to be verified whether or not the applicant has been in active practice in another jurisdiction. Such an applicant will be given credit for the most recent renewal fees previously paid if the applicant applies to reactivate in the same biennium at other than the applicant's regular renewal date. An associate licensee changing from active to inactive status during a biennial renewal period will not, however, be entitled to a refund of any of the fees previously paid to attain active status.

193F—9.6(272C,543D) Retired status. A certified licensee may place their license in retired status. For purposes of this rule, the term "retired" means the person has retired from working as a certified appraiser and has requested to be placed in retired status through the board's online system. A licensee in retired status may request that the license be placed back into active status so long as the licensee is still within the biennial period of the last active status. The board will not provide a refund of biennial registration and certification fees when an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Licensees in retired status are exempt from the renewal obligation. While in retired status, appraisers cannot hold themselves out to the public as being a certified appraisers during the period of time that the license is in retired status.

193F—9.7(272C,543D) Property of the board. Every license issued by the board will, while it remains in the possession of the holder, be preserved by the holder but will, nevertheless, always remain the property of the board.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1587
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	70

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this state".

543D.13(1) removal of "and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports" due to be outdated in nature.

543D.13(2) outdated language the term "give written notice of the change to the board and apply for an amended certificate" needs replaced with "submit change of address application through the board's online system".

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to "required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 2, 2023	Total Rule Count:	2
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	10 Reciprocity	Iowa Code Section Authorizing Rule:	543D.11
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 10 establishes the pathway for those seeking real estate appraiser certification/permits in Iowa. The benefit is to allow individuals an avenue to provide services to Iowans either on an ongoing or a temporary basis. It also allows for a certified appraiser moving to the State of Iowa to be licensed prior to arriving thus attracting people to our state.

Is the benefit being achieved? Please provide evidence.

The Board’s licensing of reciprocal and temporary practice permits is largely directed by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. In 2022 Iowa processed 151 temporary practice permits to certified appraisers and as of 8/2/2023 Iowa has licensed 37 certified appraiser by reciprocity in 2023.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.10. Licensees are responsible for costs associated with obtaining a temporary license or license through reciprocity.

The chart below indicates the reciprocity and temporary practice permit fees for Iowa as well as states in close proximity. Iowa does not assess an application fee and is not indicated in the below cost for other states. In 2021, the certified real estate appraiser fee was lowered from \$390 to \$280 and the temporary practice permit was lowered from \$150 to \$100 in addition to allowing unlimited temporary practice permits from a maximum per calendar year of two permits.

Real Estate Appraiser Examining Board

	Iowa	South Dakota	Minnesota	Illinois	Missouri	Nebraska	Kansas
Certified General - Initial	\$280	\$880	\$260	\$315	\$300	\$680	\$530
Certified Residential - Initial	\$280	\$830	\$260	\$315	\$300	\$680	\$530
Temporary Practice Permit	\$100	\$200	\$150	\$100	\$150	\$150	\$50

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing & Regulation Fund established

in SF 557. It takes roughly .5 of an FTE to review application materials for the board overall not exclusive to the temporary practice permit and reciprocity applications. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application. If a applicant is disciplined in another state, the application may be forwarded to the discipline committee for additional review prior to licensure or issuance of temporary practice permits.

Due to federal requirements temporary practice permits are required to be completed in 5 days of receipt which could bring more FTE's than assigned to process this application type as well as verifications of licensure.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The board believes that all current requirements assure public safety and ensure a minimum competency is provided to lowans. This chapter complies with the minimum requirements set by the Appraisal Subcommittee. This rule is required by statute.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, There were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

10.1 restrictive, outdated, inconsistent, and better clarification was added.

10.2 restrictive, outdated, inconsistent, and better clarification was added.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 10
RECIPROCITY

193F—10.1(543D) Nonresident certification by reciprocity.

10.1(1) A nonresident of Iowa seeking certification in this state can apply for reciprocity through the board's online system and pay the board-established fee.

10.1(2) The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the good standing obligation without additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee will need to supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal.

10.1(3) A reciprocal certified appraiser will comply with all provisions of Iowa law and rules.

10.1(4) Reciprocal certified appraisers are obligated to pay the federal registry fee as set forth in board rule.

193F—10.2(543D) Temporary practice permit.

10.2(1) The board will recognize, on a temporary basis, the license of a certified appraiser issued by another state for a period of six months, unless the applicant requests, and is approved for, a one-time extension. An extension request has to be received prior to the expiration date of the issuance of the temporary practice permit. An extension may be granted for up to six months past the original expiration date so long as the applicant is still eligible for a temporary practice permit.

10.2(2) The appraiser has to apply through the board's online system. The appraiser seeking a temporary practice permit must meet the other qualifying factors associated with reciprocity, including good standing and payment of the appropriate fee. The temporary practice permit will authorize the licensee to perform appraisal on the properties listed on the permit.

10.2(3) An appraiser holding an inactive, retired, or lapsed certificate as a real estate appraiser in Iowa may apply for a temporary practice permit if the appraiser holds an active, unexpired certificate as a real estate appraiser in good standing in another jurisdiction and is otherwise eligible for a temporary practice permit.

10.2(4) An appraiser who was previously a registered associate or certified appraiser in Iowa whose Iowa license has been revoked or surrendered in connection with a disciplinary investigation or proceeding is ineligible to apply for a temporary practice permit in Iowa.

10.2(5) The board may deny an application for a temporary practice permit based on prior discipline in this jurisdiction or other jurisdictions.

10.2(6) An appraiser holding an inactive, retired, or lapsed Iowa certificate who applies to reinstate to active status in Iowa will not be given credit for any fees paid during the biennial period for one or more temporary practice permits.

10.2(7) An appraiser holding a license to practice as a real estate appraiser in another jurisdiction may practice in Iowa without applying for a temporary practice permit or paying any fees as long as the appraiser does not perform appraisal services in Iowa that require licensure in this state.

10.2(8) The board will receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants will apply using the board's online system. The board will grant or deny all applications for temporary practice permits within the requirements set by the ASC. Applicants disclosing discipline or criminal convictions will need to attach supporting documentation so that the board can assess whether grounds exist to deny the application.

Falsification of information or failure to disclose material information will be grounds to deny the

application, deny subsequent applications, or to reinstate a lapsed or inactive Iowa license.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	279
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	22

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

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Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 2, 2023	Total Rule Count:	13
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	11 Continuing Education	Iowa Code Section Authorizing Rule:	543D.16
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 11 established the continuing education requirements for initial and renewal licensees, while also clarifying the requirements/processes for course providers that wish to provide education services to Iowa licensees.

Is the benefit being achieved? Please provide evidence.

Yes, this chapter publicly outlines the education requirements for licensees. This chapter is also cited in audits, a crucial and required function of the requirements set by the Appraisal Foundation (TAF) in the Appraisal Qualifications Board (AQB).

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.11. Licensees are responsible for costs associated with continuing education and course providers are responsible for costs associated with course approvals.

The 28 hours of continuing education requirements are set by TAF in the AQB criteria. Iowa complies with the minimum set requirements. When reviewing the following states: Illinois, Kansas, Minnesota, Missouri, Nebraska, and South Dakota only Illinois and Missouri required more hours of continuing education at 29 hours and 30 hours respectively.

The estimated cost for continuing education is \$535.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. It takes roughly .5 of an FTE to review application materials for the board overall not exclusive to the continuing education audits that are conducted after renewals required by TAF. Those are completed by the executive officer of the board. An additional cost to the agency includes travel expenses when completing education audits of providers. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Iowa required the minimum required standards for continuing education and course provider education approvals. This rule is required by statute. The board has sought to simplify text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 11.1 un-necessary, duplicative, outdated
- 11.2 obsolete, outdated, redundant, un-necessary, redundant
- 11.4 un-necessary
- 11.5 outdated
- 11.6 outdated
- 11.7 outdated
- 11.10 outdated
- 11.12 outdated
- 11.13 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

11.3

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 11
CONTINUING EDUCATION

193F—11.1(272C,543D) Definitions. For the purpose of these rules, the following definitions apply:

“*Approved program*” means a continuing education program, course, or activity that satisfies the standards set forth in these rules and has received advance board approval pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the board to conduct continuing education programs pursuant to these rules.

“*Asynchronous*” means that the instructor and student interaction in an educational offering in which the student progresses at their own pace through structured course content and scheduled quizzes and examinations.

“*Board*” - same as Iowa Code Section 543D.2(7). “*Continuing education*” means education that is obtained by a person certified to practice real estate appraising in order to maintain, improve, or expand skills and knowledge obtained prior to initial certification or registration, or to develop new and relevant skills and knowledge, all as a condition of renewal.

“*Credit hour*” means the value assigned by the board, or the AQB, to a continuing or qualifying education program.

“*Distance education*” means any education process based on the geographical separation of student and instructor. “Distance education” includes asynchronous, synchronous, and hybrid educational offerings.

“*Guest speaker*” means an individual who teaches an appraisal education program on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter.

“*Hybrid*,” also known as a blended course, means a learning environment that allows for both in-person and online (synchronous or asynchronous) interaction.

“*Live instruction*” means an educational program delivered in a classroom setting where both the student and the instructor are present in the same room.

“*Qualifying education*” means education that is obtained by a person seeking certification as a real property appraiser prior to initial certification or registration.

“*Synchronous*” means that in an educational offering the instructor and student interact online simultaneously, as in a phone call, video chat or live webinar, or web-based meeting.

193F—11.2(272C,543D) Continuing education obligations.

11.2(1) Board-licensed appraisers have to demonstrate compliance with the continuing education set by the AQB criteria

11.2(2) All continuing education credit hours may be acquired in approved education programs.

11.2(3) Instructors claiming continuing education credit may be requested to provide supporting documentation to ascertain course content and related details.

11.2(4) An applicant seeking to renew an initial license issued less than 185 days prior to renewal is not obligated to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal has to demonstrate completion of at least 14 credit hours, including the National USPAP continuing education course or its AQB equivalent. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more has to demonstrate completion of at least 28 credit hours, including seven credit hours of the most recent National USPAP continuing education.

11.2(5) Prior to reinstatement or reactivation of a certified general or residential registration, a licensee in inactive, retired, or lapsed status has to complete all continuing education hours that would have been needed if the licensee was in active status. The hours will also include the most recent edition of a National USPAP Update course.

11.2(6) During each two-year renewal period, a continuing education program may be taken for credit only once.

11.2(7) At least 50 minutes of every class hour have to be attended by the student to count as an hour of continuing education.

11.2(8) An applicant may claim continuing education credits that have been approved by another jurisdiction that has a continuing education obligation for license renewal in that jurisdiction if the applicable program was approved by the other jurisdiction’s appraisal regulatory body or the AQB for continuing education purposes at the time the applicant completed the course. The burden of proof in this regard is on the applicant. All other programs have to be approved upon application to the board pursuant to this chapter.

11.2(9) A person certified or registered to practice real estate appraising in Iowa will be deemed to have complied with Iowa’s continuing education obligation for periods in which the person is a resident of another state or district having continuing education obligations for real estate appraising and meets all obligations of that state or district.

11.2(10) A person certified or registered to practice real estate appraising in Iowa who completes an education course approved by both the board and another appraiser regulatory body, for which the approved hours vary, will only be allowed to claim the hours approved by the board to meet the obligations of renewal of the person’s associate registration or certified credential in Iowa. A person certified or registered to practice real estate appraising in Iowa who completes an educational course not approved in Iowa, but approved by either the AQB or by another appraiser regulatory body, may claim the hours awarded by either the AQB or the appraiser regulatory body of the other jurisdiction.

193F—11.3(272C,543D) Minimum program qualifications.

11.3(1) The board will only approve continuing education programs that provide a formal program of learning that contributes to the growth in the professional knowledge and professional competence of real estate appraisers.

11.3(2) Continuing education programs as listed in the AQB criteria are accepted by the board, as well as the following appraisal topics, which the board has determined are integrally related to appraisal topics in the state:

- a. Agriculture production and economics;
- b. Agronomy/soil;
- c. Real estate appraisal technology (e.g., drones).

11.3(3) The following programs will not be acceptable:

- a. Sales promotion meetings held in conjunction with the appraiser's general business;
- b. Time devoted to breakfast, lunch, or dinner;
- c. A program certified by the use of a challenge examination. The number of hours will be completed to receive credit hours;
- d. Programs that do not provide at least two credit hours.

11.3(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour.

11.3(5) Continuing education credit may be approved for university or college courses, when an official transcript is provided, in qualifying topics according to the following formula: Each semester hour of credit will equal 15 credit hours and each quarter hour of credit will equal 10 credit hours.

193F—11.4(272C,543D) Standards for provider and program approval. Providers and programs will satisfy the following minimum standards in order to be pre-approved in accordance with the procedures established in this chapter and in order to maintain approved status.

11.4(1) The program will be taught or developed by individuals who have the education, training and experience to be considered experts in the subject matter of the program and competent in the use of teaching methods appropriate to the program.

11.4(2) Programs will be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program. Certified USPAP instructors and instructors approved via a course delivery mechanism approval per the AQB criteria will be considered to have met this obligation.

11.4(3) In determining whether an instructor is qualified to teach a particular program, the board will consider whether the instructor has an ability to teach and an in-depth knowledge of the subject matter.

11.4(4) An instructor may demonstrate the ability to teach by meeting one or more of the following criteria:

- a. Hold a bachelor's degree or higher in education from an accredited college ;
- b. Hold a current teaching credential or certificate in any real estate or real estate-related fields ;
- c. Hold a certificate of completion in the area of instruction from an instructor institute, workshop or school that is sponsored by a member of the Appraisal Foundation;
- d. Hold a full-time current appointment to the faculty of an accredited college;
- e. Other, as the board may determine.

11.4(5) An instructor may demonstrate in-depth knowledge of the program's subject matter by meeting one or more of the following criteria:

- a. Hold a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the instructor proposes to teach, such as business, economics, accounting, real estate or finance ;
- b. Hold a bachelor's degree or higher from an accredited college and have five years of appraisal experience related to the subject matter of the course the instructor proposes to teach ;
- c. Hold a generally recognized professional real property appraisal designation or be a sponsor member of the Appraisal Foundation;
- d. Other, as the board may determine.

11.4(6) Only AQB-certified USPAP instructors, listed on the website of the Appraisal Foundation may teach the national USPAP courses, or its AQB-approved equivalent.

11.4(7) Course content and materials will be accurate, consistent with currently accepted standards relating to the program's subject matter and updated no later than 30 days after the effective date of a change in standards, laws, or rules.

11.4(8) Programs will have an appropriate means of written evaluation by participants. Evaluations will include the relevance of the materials, effectiveness of presentation, content, facilities, and such additional features as are appropriate to the nature of the program.

11.4(9) No part of any course will be used to solicit memberships in organizations, recruit appraisers for affiliation with any organization or advertise the merits of any organization or sell any product, or service.

11.4(10) Providers will clearly inform prospective participants of the number of credit hours pre-approved by the

board for each program and all applicable policies concerning registration, payment, refunds, attendance obligations, and examination grading.

11.4(11) Procedures will be in place to monitor whether the person receiving credit hours is the person who attended or completed the program.

11.4(12) Providers will be accessible to students during normal business hours to answer questions and provide assistance as necessary.

11.4(13) Providers will comply with or demonstrate exemption from the provisions of Iowa Code sections 714.14 to 714.25.

11.5(14) Providers will designate a coordinator in charge of each program who will act as the board's contact on all compliance issues.

11.4(15) Programs will not offer more than eight credit hours in a single day.

11.4(16) Providers will not provide any information to the board, the public, or prospective students that is misleading in nature. For example, providers will not refer to themselves as a "college" or "university" unless qualified as such under Iowa law.

11.4(17) Providers will establish and maintain for a period of five years complete and detailed records on the programs successfully attended by each Iowa participant.

11.4(18) Providers will issue an individual certificate of attendance to each participant upon successful completion of the program.

11.4(19) Program providers and instructors are solely responsible for the accuracy of all program materials, instruction, and examinations. Board approval of a provider or program is not an assurance or warranty of accuracy and will not be explicitly or implicitly marketed or advertised as such.

11.4(20) Providers will apply for approval using the board's online system.

11.4(21) Providers will notify the board within 30 days of a change in the provider's primary contact, name, business address, or any other change that may affect the provider's tax identification number or bond obligations with the Iowa college aid commission.

193F—11.5(272C,543D) Acceptable distance education courses. Distance education involves geographical separation of student and instructor. A distance education course is acceptable to meet class hour obligations if it complies with the generic education criteria in the current AQB criteria.

193F—11.6(272C,543D) Applications for approval of programs. Applications for approval of programs will be submitted through the board's online system. All non-AQB courses are approved for 24 months, including the month of approval. Programs approved for distance education or by the AQB may be approved by the board. Board approval of a program will only be valid for the shortest period of time such a program is approved by either organization.

11.6(1) Approval will be obtained for each program separately. With the exception of hybrid courses, courses that are offered via more than one delivery method will require separate program approvals.

11.6(2) A nonrefundable fee of \$50 will be submitted for each program except for programs that are submitted for approval by the primary provider and that have been approved by the AQB through the AQB Course Approval Program (CAP).

11.6(3) All online applications and attachments will be submitted for approval at least 30 days prior to the first offering of each program or, if renewing, within 30 days of the course expiration date. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives a fully completed application. Upon approval of an application for course offering, the board will specify the number of credit hours allowed. Payments for course program applications will be made within 30 calendar days of board approval or the application approval may be reversed.

11.6(4) Applications for non-AQB CAP courses will request information including, but not limited to, the following:

- a.* Program description;
- b.* Program purpose;
- c.* Learning objectives that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- d.* Description of the instructional methods utilized to accomplish the learning objective;
- e.* Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in this chapter;
- f.* Copies of all instructor and student program materials or, in the case of a one-time course offering, a statement that attests all instructor and student materials will be submitted to the board within ten calendar days of the course offering;
- g.* Copies of all examinations and a description of all grading procedures;
- h.* A description of the diagnostic assessment method(s) used when examinations are not given;
- i.* Such information as needed to verify compliance with board rules;
- j.* The name, address, telephone number, and email address for the program's coordinator;

k. Such other information as the board deems reasonably needed for informed decision making.

11.6(5) Application forms for courses that are AQB CAP-approved will include information as deemed necessary for accurate documentation but may be more limited than information set forth in this chapter.

11.6(6) The board will assign each provider and program a number. This number will be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

193F—11.7(272C,543D) Waiver of application fees. Application fees may be waived for approved programs sponsored by a governmental entity when the program is offered at no cost or at a nominal cost to participants. A request for waiver of application fees should be made by the provider or certificate holder at the time the application is filed with the board.

193F—11.8(272C,543D) Authority to approve education. The executive officer has the authority to approve or deny education applications subject to the applicant's right to a hearing as provided for in this chapter.

193F—11.9(272C,543D) Appraiser request for preapproval of continuing education programs. An appraiser seeking credit for attendance and participation in a program that is to be conducted by a provider not accredited or otherwise approved by the board will apply for approval to the board at least 15 days in advance of the commencement of the activity. The board will approve or deny the application in writing. The online application for prior approval of a continuing education activity will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title and hour-by-hour outline of the program, course or activity;
5. Credit hours requested for approval;
6. Date of program; and
7. Principal instructor(s).

193F—11.10(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board may submit a request for credit for the program. Within 15 days after receipt of the request, the board will advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the obligation of this rule may be denied credit for the program. Application for post-approval of a continuing education program will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Date(s) of program;
7. Student and instructor materials;
8. Principal instructor(s); and
9. Verification of attendance.

193F—11.11(272C,543D) Review of provider or program. The board on its own motion or upon receipt of a complaint or negative evaluation may monitor or review any approved program or provider and may withdraw approval of the provider or program and disallow all or any part of the approved hours granted to the provider based on evidence that the obligations of this chapter have not been met. The provider, as a condition of approval, agrees to allow the board or its authorized representatives to monitor ongoing compliance with board rules through means including, but not limited to, unannounced attendance at programs.

193F—11.12(272C,543D) Hearings. Any person aggrieved by board action related to this chapter may request a contested case hearing before the board.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:

0

Proposed word count reduction after repeal and/or re-promulgation	3003
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	86

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	August 18, 2023	Total Rule Count:	3
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	12 Fees	Iowa Code Section Authorizing Rule:	543D.6
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 12 establishes the fees assessed for the licensing of real estate appraisers in the state of Iowa. It also includes a provision on the Appraisal Subcommittee Federal Financial Institutions Examination Council fees that are collected by the state of Iowa on their behalf. The benefit is to be upfront with prospective appraisers and the general public the fees associated with each application type.

A comparison of Illinois, Kansas, Minnesota, Missouri, Nebraska, and South Dakota shows that Iowa is the second lowest in licensure and renewal cost for a associate appraiser and certified appraiser.

REAP Board	Iowa	South Dakota	Minnesota	Illinois	Missouri	Nebraska	Kansas
Certified General License - Initial	280	880	260	315	300	680	530
Certified Residential - Initial	280	830	260	315	300	680	530
Associate Appraiser - Initial	200	420	180	225	300	600	450
Certified General - Renewal	280	780	210	530	300	630	480
Certified Residential - Renewal	280	750	210	530	300	630	480
Associate Appraiser - Renewal	200	350	130	300	300	550	400
TPP	100	200	150	100	150	150	50

Is the benefit being achieved? Please provide evidence.

Yes, this chapter explains the cost associated with licensee fees along with explaining how federal registry fees are collected. The federal registry fee allows anyone to look up an appraiser in the national system which is a great asset to those seeking an appraiser in Iowa.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.12. Licensees are responsible for cost associated with application and national registry fees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing

boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed by Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.

In addition, these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify text, as noted below.

FY24 will be the first fiscal year where professional licensing board fees are collectively pooled in the Licensing & Regulation Fund to support the cost of regulating the professions.

Additionally, the Boards and Commissions Review Committee is currently assessing the efficiency and effectiveness of all boards and commissions, including those in the DIAL – Licensing Division. The Committee will make recommendations on continuation, elimination, consolidation, or reorganization that may impact the Division and its financial needs.

Based on these unknowns, the Department believes it would be best to re-assess fees at a later date to analyze the budget from a complete fiscal year, the recommendations from the Review Committee, and any action the Legislature may take during the 2024 Legislative Session.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards.

It is important to note that in 2021, the board lowered the fees for licensure and temporary practice permits. Temporary practice permits lowered from \$150 to \$100 per permit and licensure/renewals for certified from \$390 to \$280 and for associates from \$310 to \$200.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, There were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

12.1 obsolete, redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

12.3

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):CHAPTER 12
FEES**193F—12.1(543D) Fees.**

Initial examination application fee	\$150
Biennial registration fee for active status (initial, reciprocal, renewal):	
Associate/Certified real property appraiser > one year	\$200
Associate/Certified real property appraiser < one year	\$100
Biennial registration fee for inactive status (initial, reciprocal, renewal):	
Certified real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$100
Reinstatement of a lapsed or retired license (lapsed or retired to active status)	\$150 (plus the registration fee)
Reactivation of an inactive or retired license (inactive or retired to active status)	\$50 (plus the registration fee)
Formal wall certificate	\$25
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report
Course application fee (non-AQB-approved courses and secondary providers)	\$50
Pre-/post-course application fee	\$25
Background check	\$51
Add supervisory appraiser	\$25
Add course instructor	\$10
Waiver to administrative rules	\$25

Late renewal of associate or certified	\$50
ASC National Registry fee > one year, separate from registration fee (collected by the board for FFIEC)	\$80
ASC National Registry fee < one year, separate from registration fee (collected by the board for FFIEC)	\$40
Examination fee (and reexamination fee) (to be paid to the examination provider)	Current provider rate

193F—12.2(543D) Prorating of registration fees. An applicant applying for initial or reciprocal registration or certification within 12 months from the applicant’s renewal date, pursuant to rule 193F—9.1(543D), will pay half the fee. An applicant applying for initial or reciprocal registration or certification more than 12 months from the applicant’s renewal date will pay the full registration fee. An applicant applying to reinstate or reactivate a lapsed registration or certification within 12 months from the applicant’s renewal date, pursuant to rule 193F—9.1(543D), will pay half the renewal fee plus the applicable reactivation or reinstatement fee. An applicant applying to reinstate or reactivate a lapsed registration or certification more than 12 months from the applicant’s renewal date will pay the full renewal fee plus the applicable reactivation or reinstatement fee.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	478
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	12

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	6
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	13 Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions	Iowa Code Section Authorizing Rule:	193.15
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter provides the public, licensees, and applicants with information about how criminal convictions may impact an application for licensure and allows for a license predetermination. These rules are duplicative of statute are being rescinded.

Is the benefit being achieved? Please provide evidence.

The benefit of the rules is achieved as only qualified individuals are permitted to enter the professions. Additionally, the rule satisfies the statutory requirement. Since the language restates statute, it is being rescinded.

What are the costs incurred by the public to comply with the rule?

There is generally no direct cost to the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the cost to license professions justifies the benefits achieved because it ensures that lowans are protected.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

13.1 redundant
13.2 redundant
13.3 redundant
13.4 redundant
13.5 redundant
13.6 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F-13: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	17

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this

state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	0
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	14 (Reserved)	Iowa Code Section Authorizing Rule:	N/A
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter is being rescinded as it is listed as reserved and would interfere with new numbering.

Is the benefit being achieved? Please provide evidence.

N/A as the chapter is being rescinded.

What are the costs incurred by the public to comply with the rule?

N/A as the chapter is being rescinded.

What are the costs to the agency or any other agency to implement/enforce the rule?

N/A as the chapter is being rescinded.

Do the costs justify the benefits achieved? Please explain.

N/A as the chapter is being rescinded.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

N/A as the chapter is being rescinded.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

14 obsolete

RULES PROPOSED FOR REPEAL (list rule number[s]):

14

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards. 272C.1(6)(AG) has the superintendent of the division of banking of the department of commerce listed which will need to be updated to director of the division of licensing of the department of inspections, appeals, and licensing.

543D.2(14) the definition of superintendent will need changed to the director of the division of licensing of the department of inspections, appeals, and licensing.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.4(1) remove banking division of the department of commerce to the licensing division of the department of inspections, appeals, and licensing.

543D.5(1) remove superintendent's term and replace with director's.

543D.6(2) remove department of commerce and superintendent to be department of inspections, appeals, and licensing and director. In addition to the term changes, appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this state".

543D.13(1) removal of "and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports" due to be outdated in nature.

543D.13(2) outdated language the term "give written notice of the change to the board and apply for an amended certificate" needs replaced with "submit change of address application through the board's online

system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

543D.20(1)(c) the board is not comfortable with non-licensee’s entering/photographing a property. A number of controversial methods are being reported in obtaining photos such as hiring of ride share drivers.

543D.23 the title will need changed to Director supervision and authority.

543D.23(1) the term superintendent needs changed to director.

543D.23(2) the term superintendent needs changed to director.

543D.23(3) the term superintendent needs changed to director.

In the State Records Manual, updated 26Apr2023, the criminal history background check for real estate appraiser applications needs to be added to the listing in the same manner as the real estate commission.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	4
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	15 Supervisor Responsibilities	Iowa Code Section Authorizing Rule:	193F 4.7
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the chapter is to provide guidelines for supervisory appraisers in order to adequately prepare associate appraisers to demonstrate professional competence and work independently upon issuance of full licensure. The supervisor is considered an integral part of the training process, and supervision should be considered a full-time, hands-on responsibility. This chapter is being rescinded and added to 193F 4.7.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved to help supervisors in their oversight of associate appraisers in order to provide quality training.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

While the costs are justified by the benefits achieved, this chapter is being repealed and parts added to 194F-4.7.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board's licensing of certified real estate appraisers is largely directed by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

15.1 redundant
 15.2 redundant
 15.3 redundant
 15.4 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F-15: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	904
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	12

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
 543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	8/21/2023	Total Rule Count:	7
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	16 Enforcement Proceedings Against Nonlicensees	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 16 establishes the enforcement proceedings against nonlicensees. The benefit of this rule is to protect clients and residents in Iowa that require a certified appraiser for federally regulate transactions as required by federal statute.

Is the benefit being achieved? Please provide evidence.

Yes, due to requirements set by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, anyone providing appraisals for federally regulated transactions must be licensed. With this rule we are able to impose penalties and investigate those that do not hold an Iowa license when required.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.16. License fees are responsible for costs associated with the enforcement proceedings against nonlicensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.
In addition these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is required by statute. The board has sought to simplify the rules text, as noted below, including

deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, There were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

16.1 unnecessary

16.2 duplicative, unnecessary

RULES PROPOSED FOR REPEAL (list rule number[s]):

16.3

16.6

16.7

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 16
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

193F—16.1(543D) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 543D.21.

193F—16.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

16.2(1) Violating Iowa Code section 543D.15(1)(a);

16.2(2) Failing to obtain a temporary practice permit under Iowa Code 543D.11(2);

16.2(4) Falsely impersonating a licensee by using the certification or registration title, number or signature of a licensee, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a board-issued license.

16.2(5) Violating Iowa Code section 543D.21(4)(e).

16.2(6) Violating Iowa Code 543D.20(1)(a), (b), (c), or (d). **16.2(7)** Violating Iowa Code section 543D.18A.

[
193F—16.3(543D) Notice of intent to impose civil penalties.

16.3(1) The notice of the board's intent to issue an order to compel compliance with Iowa Code section 543D.21 and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

16.3(2) The notice will include the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty and the nature of the intended order to compel compliance with Iowa Code section 543D.21.
- e. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing has to be requested.
- f. The address to which a written request for hearing has to be made.

193F—16.4(543D) Request for hearing.

16.4(1) Nonlicensees have to request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing has to be in writing and is deemed made on the date of the non-metered United States Postal Service postmark or the date of personal delivery to the board office.

16.4(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson’s designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

16.4(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

16.4(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

16.4(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	597
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	11

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this

state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	2
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	17 Superintendent Supervision Standards and Procedures	Iowa Code Section Authorizing Rule:	543D.23
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 17 provides for the supervision of the real estate appraiser board, its standards, and procedures. These rules are duplicative of statute are being rescinded.

Is the benefit being achieved? Please provide evidence.

Yes. Since the language restates statute, it is being rescinded.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, supervision of the appraiser board is an effort to comply with federal antitrust law.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The board needs to comply with federal law.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

17.1 duplicative of statutory language
17.2 duplicative of statutory language

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F-17: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1,373
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	34

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	17
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	18 Waivers	Iowa Code Section Authorizing Rule:	193.5
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 18 outlines a uniform process for the public, applicants, and licensees to petition a board for a waiver to administrative rule, which would suspend in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public, licensees and applicants should have a mechanism to petition the board for a waiver from administrative rule. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

18.1 redundant
 18.2 redundant
 18.3 redundant
 18.4 redundant
 18.5 redundant
 18.6 redundant
 18.7 redundant
 18.8 redundant
 18.9 redundant
 18.10 redundant
 18.11 redundant
 18.12 redundant
 18.13 redundant
 18.14 redundant
 18.15 redundant
 18.16 redundant
 18.17 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F -18: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	17
Proposed word count reduction after repeal and/or re-promulgation	2,324
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	45

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
 543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national

registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report

(Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 31, 2023	Total Rule Count:	2
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	19 Investigatory Subpoenas	Iowa Code Section Authorizing Rule:	193.6
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter is being rescinded as it is not in the board's purview and will be addressed by DIAL. This chapter will be included with IAC 193.6.

Is the benefit being achieved? Please provide evidence.

N/A as the chapter is being rescinded.

What are the costs incurred by the public to comply with the rule?

N/A as the chapter is being rescinded.

What are the costs to the agency or any other agency to implement/enforce the rule?

N/A as the chapter is being rescinded.

Do the costs justify the benefits achieved? Please explain.

N/A as the chapter is being rescinded.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

N/A as the chapter is being rescinded.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

19.1 redundant
19.2 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

19.1
19.2

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards. 272C.1(6)(AG) has the superintendent of the division of banking of the department of commerce listed which will need to be updated to director of the division of licensing of the department of inspections, appeals, and licensing.

543D.2(14) the definition of superintendent will need changed to the director of the division of licensing of the department of inspections, appeals, and licensing.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.4(1) remove banking division of the department of commerce to the licensing division of the department of inspections, appeals, and licensing.

543D.5(1) remove superintendent's term and replace with director's.

543D.6(2) remove department of commerce and superintendent to be department of inspections, appeals, and licensing and director. In addition to the term changes, appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms if confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this state".

543D.13(1) removal of "and all other addresses at which the appraiser is currently engaged in business of

preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

543D.20(1)(c) the board is not comfortable with non-licensee’s entering/photographing a property. A number of controversial methods are being reported in obtaining photos such as hiring of ride share drivers.

543D.23 the title will need changed to Director supervision and authority.

543D.23(1) the term superintendent needs changed to director.

543D.23(2) the term superintendent needs changed to director.

543D.23(3) the term superintendent needs changed to director.

In the State Records Manual, updated 26Apr2023, the criminal history background check for real estate appraiser applications needs to be added to the listing in the same manner as the real estate commission.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	7/31/2023	Total Rule Count:	42
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	20 Contested Cases	Iowa Code Section Authorizing Rule:	193.7
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 20 provides This chapter is being rescinded as it is not in the board’s purview and will be addressed by licensing.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter. The chapter is IAC 193.7.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Cost to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public, licensees and applicants should have the ability to a contested case. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

20.1 Redundant
20.2 Redundant
20.3 Redundant
20.4 Redundant
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20.7 Redundant
20.8 Redundant
20.9 Redundant
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20.39 Redundant
20.40 Redundant
20.41 Redundant

20.42 Redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F - 20: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	42
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	329

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	7/31/2023	Total Rule Count:	3
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	21 Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support or State Debt	Iowa Code Section Authorizing Rule:	193.8
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter is being rescinded as it is not in the board's purview and will be addressed by licensing. The chapter this rule will be covered by is IAC 193.8.

Is the benefit being achieved? Please provide evidence.

N/A as the chapter is being rescinded.

What are the costs incurred by the public to comply with the rule?

N/A as the chapter is being rescinded.

What are the costs to the agency or any other agency to implement/enforce the rule?

N/A as the chapter is being rescinded.

Do the costs justify the benefits achieved? Please explain.

N/A as the chapter is being rescinded.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

N/A as the chapter is being rescinded.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

21.1 redundant
 21.2 redundant
 21.3 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

21.1
 21.2
 21.3

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	0
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	37

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards. 272C.1(6)(AG) has the superintendent of the division of banking of the department of commerce listed which will need to be updated to director of the division of licensing of the department of inspections, appeals, and licensing.

543D.2(14) the definition of superintendent will need changed to the director of the division of licensing of the department of inspections, appeals, and licensing.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.4(1) remove banking division of the department of commerce to the licensing division of the department of inspections, appeals, and licensing.

543D.5(1) remove superintendent's term and replace with director's.

543D.6(2) remove department of commerce and superintendent to be department of inspections, appeals, and licensing and director. In addition to the term changes, appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms if confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this

state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

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543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

543D.20(1)(c) the board is not comfortable with non-licensee’s entering/photographing a property. A number of controversial methods are being reported in obtaining photos such as hiring of ride share drivers.

543D.23 the title will need changed to Director supervision and authority.

543D.23(1) the term superintendent needs changed to director.

543D.23(2) the term superintendent needs changed to director.

543D.23(3) the term superintendent needs changed to director.

In the State Records Manual, updated 26Apr2023, the criminal history background check for real estate appraiser applications needs to be added to the listing in the same manner as the real estate commission.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 28, 2023	Total Rule Count:	5
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	22 Petition for Rule Making	Iowa Code Section Authorizing Rule:	193.9 will be added to DIAL general chapters
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 22 provides guidance on petitioning the boards for rule making.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and the provisions will be covered in DIAL IAC 193.9 to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public should have a mechanism to propose new rules when necessary and be a part of the rule making process. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be incorporated into DIAL IAC193.9.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

22.1 redundant
 22.2 redundant
 22.3 redundant
 22.4 redundant
 22.5 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

22.1
 22.2
 22.3
 22.4
 22.5

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	5
Proposed word count reduction after repeal and/or re-promulgation	890
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	16

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
 543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

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preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 27, 2023	Total Rule Count:	12
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	23 Declaratory Order	Iowa Code Section Authorizing Rule:	193.10 will be part of DIAL – General Chapters
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 23 covers the provisions for declaratory orders. It is being rescinded and the provisions incorporated into DIAL IAC193.10

Is the benefit being achieved? Please provide evidence.

Yes. The benefit is achieved by informing the public of the process to file a petition for a declaratory order.

What are the costs incurred by the public to comply with the rule?

There is no fee to file a petition for a declaratory order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the consideration and resolution for a petition for a declaratory order. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because the public should have a mechanism to request a declaratory order. While the costs are justified by the benefits achieved, this chapter is being repealed to be incorporated into a general DIAL chapter 193.10.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, incorporating this chapter into DIAL IAC 193.10 reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

23.1 redundant
23.2 redundant
23.3 redundant
23.4 redundant
23.5 redundant
23.6 redundant
23.7 redundant
23.8 redundant
23.9 redundant
23.10 redundant
23.11 redundant
23.12 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

23.1
23.2
23.3
23.4
23.5
23.6
23.7
23.8
23.9
23.10
23.11
23.12

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:

12

Proposed word count reduction after repeal and/or re-promulgation	1937
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	32

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 28, 2023	Total Rule Count:	1
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	24 Sales and Leases of Goods and Services	Iowa Code Section Authorizing Rule:	IAC193.11
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 24 covers the sales and leasing of goods or services by board members to any parties that are subject to the board’s regulatory authority.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and the provisions incorporated to DIAL IAC193.11, to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

N/A

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and incorporating the provisions into a general DIAL chapter reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

24.1 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

24.1

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	884
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	13

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this state".

543D.13(1) removal of "and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports" due to be outdated in nature.

543D.13(2) outdated language the term "give written notice of the change to the board and apply for an amended certificate" needs replaced with "submit change of address application through the board's online system".

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

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543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 28, 2023	Total Rule Count:	17
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	25 Public Records and Fair Information Practices	Iowa Code Section Authorizing Rule:	193.13 and will be in DIAL general chapters
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 25 identifies the type of documents that are public record and those that are confidential by law.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and the provisions will be included in a general chapter of DIAL IAC193.13

What are the costs incurred by the public to comply with the rule?

Most resolutions of requests for public information can be completed with minimal staff time. Any requests that exceed one half-hour of staff time may incur a \$16 per hour charge.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to fulfill requests for public records.

Do the costs justify the benefits achieved? Please explain.

While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL IAC193.13.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

25.1 redundant
25.2 redundant
25.3 redundant
25.4 redundant
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25.9 redundant
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25.12 redundant
25.13 redundant
25.14 redundant
25.15 redundant
25.16 redundant
25.17 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

25.1
25.2
25.3
25.4
25.5
25.6
25.7
25.8
25.9
25.10
25.11
25.12
25.13
25.14
25.15
25.16
25.17

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	17
Proposed word count reduction after repeal and/or re-promulgation	6473
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	68

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

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543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

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543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	8/21/2023	Total Rule Count:	4
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	26 Military Service, Veteran Reciprocity, and Licensure of Persons Licensed in Other Jurisdictions	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	Kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

IAC 193F Chapter 26 establishes the pathway for those seeking real estate appraiser certification/permits in Iowa with veteran reciprocity, military service, and verification of licensure in another jurisdiction. The benefit is to allow individuals an avenue to provide services to Iowans. The Military Service and Veteran Reciprocity section of this chapter are being rescinded.

Is the benefit being achieved? Please provide evidence.

Yes, although we have not licensed anyone in the past year through this method, it is available. The federal requirements set by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 requires all certified appraisers seeking to complete federally regulate transaction meet minimum standards which all states must comply. In turn the standard reciprocity application (chapter 10) is the selected method applicants select as Iowa follows the minimum requirements.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 193F.26. Licensees are responsible for costs associated with obtaining licensure. An applicant may incur cost to obtain verification from all states in which they are licensed, this should be minimal since states utilize the national registry. The fee for licensure of a certified appraiser is \$280 biennially and may require a background check which is \$51.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the boards are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the profession as directed in Iowa Code and federal statute, staff play a critical role in issuing licenses. This work is done with a focus on protecting the public who receive services from these licensed professionals.
In addition these rules are required by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating a portion of the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code. The Military Service and Veteran Reciprocity section of this chapter are being rescinded.

This rule is required by statute. The board has sought to simplify the rules text, as noted below, including deleting matter that is adequately addressed by the Appraisal Subcommittee as required by Federal provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, There were opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

26.1 un-necessary
26.4 outdated

RULES PROPOSED FOR REPEAL (list rule number[s]):

26.2
26.3

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 26
LICENSURE OF PERSONS LICENSED IN OTHER JURISDICTIONS

193F—26.1(272C) Definitions.

“Issuing jurisdiction” means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

“License” or *“licensure”* means any license that may be granted by the board.

193F—26.2(272C) Licensure of persons licensed in other jurisdictions.

26.2(1) An individual who establishes residency in this state or who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state may apply for licensure under this rule on forms provided by the board. A certification or registration will be issued if all of the following conditions are met:

a. The person is currently licensed, certified, or registered by at least one other issuing jurisdiction in the profession or occupation applied for with a substantially similar scope of practice and is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration. A license, certificate, or registration issued by another jurisdiction that is classified as a licensed residential real property credential or with a scope of practice of a licensed residential real property appraiser, as defined by the AQB criteria, other applicable federal law, rule, or policy, will not be considered a profession or occupation with a substantially similar scope of practice as it relates to a certification or registration as an associate real property appraiser, certified residential real property appraiser, or a certified general real property appraiser.

b. The person has been licensed, certified, or registered by the other issuing jurisdiction forming the basis of the application.

c. When the person was licensed by the other issuing jurisdiction forming the basis of the application, the issuing jurisdiction imposed minimum educational and experience obligations, and the issuing jurisdiction verifies that the person met those obligations in order to be licensed in that issuing jurisdiction. Generally, given federal mandates, the minimum educational and experience obligations to become certified as a real estate appraiser are substantially the same nationwide within the applicable classification and scope of practice.

d. The person previously passed an AQB-approved examination by the other issuing jurisdiction for licensure, certification, or registration.

e. The person has not had a license, certificate, or registration revoked and has not voluntarily surrendered a license, certificate, or registration in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the appropriate licensing board shall determine if the cause for the action was corrected and the matter resolved. If the licensing board determines that the matter has not been resolved by the jurisdiction imposing discipline, the licensing board will not issue or deny a license, certificate, or registration to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the appropriate licensing board shall not issue or deny a license, certificate, or registration to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees. The fees for applying for licensure under this rule will be the same as the fees for reciprocal licensure.

i. The person does not have a criminal history that would prevent the person from holding the license applied for in this state.

26.2(2) An individual applying for licensure under this rule will provide, as applicable, proof of current residency in the state of Iowa or proof of the military member's official permanent change of station to the state of Iowa.

a. Proof of residency may include, by way of example:

- (1) Residential mortgage, lease, or rental agreement;
- (2) Utility bill;
- (3) Bank statement;
- (4) Pay check or pay stub;
- (5) Property tax statement;
- (6) A federal or state government document; or
- (7) Any other document that reliably confirms Iowa residency.

b. Proof of permanent change of station to the state of Iowa includes documentation issued by the appropriate branch of the military requiring a permanent change of station or otherwise indicating or demonstrating a permanent change of station has occurred.

26.2(3) In order to be considered a sufficient application, an application for licensure under this rule must include all appropriate information as required by this rule and, if applicable, the submission of fingerprints and an appropriate authorization of release as may be necessary to facilitate the board’s completion of a criminal history check and any corresponding fee.

26.2(5) A person issued a license under this rule is subject to the jurisdiction of the board.

26.2(6) An applicant who is aggrieved by the board’s decision to deny an application for a license under this rule may request a contested case hearing. A request for such a contested case hearing will be granted only if the board receives the request within 30 days of issuance of the board’s decision.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	873
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	73

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

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543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

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543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements

for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.”

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 28, 2023	Total Rule Count:	1
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	27 Impaired Licensee Review Committee and Impaired Licensee Recovery Program	Iowa Code Section Authorizing Rule:	IAC193.12
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 27 provides for a committee to review impairment to licensees that may impact the health, safety and welfare of Iowans.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and the provisions covered in DIAL IAC193.12.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including committee meetings. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because it provides the public with a procedure for addressing potentially impaired licensees. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by DIAL IAC193.12

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

27.1 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

27.1

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	938
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	24

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.

543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

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543D.9 per the appraisal subcommittee the term "majority" is not a requirement of the appraisal qualification criteria. Recommend removal of "as long as a majority of qualifying hours are completed in this state".

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543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 28, 2023	Total Rule Count:	4
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	28 Social Security Numbers and Proof of Legal Presence	Iowa Code Section Authorizing Rule:	IAC193.4
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 28 outlines a uniform process for applicants and licensees to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621).

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and the provisions covered in DIAL IAC193.4.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

No specific costs to the public. No cost to staff outside of the general task of receiving and reviewing applications.

Do the costs justify the benefits achieved? Please explain.

Yes, to ensure that applicants meet the requirements to be in this country.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating a general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

28.1 duplicative
 28.2 duplicative
 28.3 duplicative
 28.4 duplicative

RULES PROPOSED FOR REPEAL (list rule number[s]):

28.1
 28.2
 28.3
 28.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	539
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
 543D.3(2) the board would like “other than an appraisal review” to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online

system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Real Estate Appraiser Examining Board	Date:	July 27, 2023	Total Rule Count:	5
IAC #:	193F	Chapter/ SubChapter/ Rule(s):	29 Vendor Appeals	Iowa Code Section Authorizing Rule:	543D
Contact Name:	Kimberly Gleason	Email:	kimberly.gleason@dia.iowa.gov	Phone:	515.725.8145

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The purpose of Chapter 29 is to outline a uniform process for vendor appeals. The process shall be implemented when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public or the vendor for a vendor appeal.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including the vendor appeal process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits because it provides the public with a procedure for vendor appeals. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. While the costs are justified by the benefits achieved, this chapter is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

29.1 redundant
29.2 redundant
29.3 redundant
29.4 redundant
29.5 redundant

RULES PROPOSED FOR REPEAL (list rule number[s]):

193F - 29.1
193F - 29.2
193F - 29.3
193F - 29.4
193F - 29.5

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	5
Proposed word count reduction after repeal and/or re-promulgation	1506
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	45

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

These items were identified by the board as clean-up opportunities to update language.

272C.1(6) does not include the Real Estate Appraiser Examining Board in the listing of licensing boards.
543D.3(2) the board would like "other than an appraisal review" to be reviewed to require license for a reviewer on federally regulated transactions.

543D.6(2) Appraisal management company national registry fees is listed which should be in the AMC chapters. The term appraisal management company can be deleted and read as However, the national registry fees the board collects on behalf of the appraisal subcommittee shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.

543D.7 the term forms is confusing as certifications are done through the boards online system.

543D.9 per the appraisal subcommittee the term “majority” is not a requirement of the appraisal qualification criteria. Recommend removal of “as long as a majority of qualifying hours are completed in this state”.

543D.13(1) removal of “and all other addresses at which the appraiser is currently engaged in business of preparing real estate appraisal reports” due to be outdated in nature.

543D.13(2) outdated language the term “give written notice of the change to the board and apply for an amended certificate” needs replaced with “submit change of address application through the board’s online system”.

543D.13(3) due to COVID a number of appraisers have changed the address listed on their license to a residential address which is disclosed on our online system.

543D.14 the requirement of a signature is outdated on the certificate. This could be the name of the board member.

543D.16(2) with changes to 193F the continuing education requirements list the AQB criteria requirements for continuing education. This would change the last line to “required by the AQB in courses or seminars which have received the preapproval.

Red Tape Review Rule Report (Due: September 1, 20 24)

Department Name:	Interior Design Examining Board	Date:	July 29, 2023	Total Rule Count:	1
IAC #:	193G	Chapter/ SubChapter/ Rule(s):	Chapter 4	Iowa Code Section Authorizing Rule:	544C.3
Contact Name:	Lori SchraderBachar	Email:	lori.schraderbachar@iowa.gov	Phone:	(515) 725-9030

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules provide information on professional conduct of the registrant.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as each of the rules functions to inform the registrants, building code officials, and the public for professional conduct, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. Registrants who wish to stamp/seal technical documents must purchase a seal per a new law, which took effect on July 1; the cost of the seal is under \$50. There is also time and effort that goes into practicing in a competent manner.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of conduct standards, questions from licensees and the public, administration of board meetings, etc.. Shared staff at approximately .1 of an FTE support the entirety of the work of the board. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

These rules are less restrictive than full licensure. The rules pertain only to those who wish to hold themselves as registered interior designers. These rules inform registrants as well as the public on the provisions for professional conduct, including under what circumstances a registered interior designer may seal their work.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

None.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 4
PROFESSIONAL CONDUCT

193G—4.1(544C) Rules of conduct. A registered interior designer shall maintain a high standard of integrity and professional responsibility within the profession of registered interior design to protect the public health, life safety, and welfare. Failure by a registrant to adhere to the provisions of Iowa Code sections 272C.10 and 544C and following rules of conduct may be grounds for disciplinary action.

4.1(1) *Competence.*

a. A registered interior designer shall act with reasonable care and competence and apply the technical knowledge and skill ordinarily applied by a registered interior designer of good standing providing interior design services in the same locality.

b. The board may initiate discipline against a registered interior designer or may, when appropriate, refer a registered interior designer to the board's impaired practitioner review committee based on habitual intoxication or addiction to the use of drugs or other impairment which adversely affects the registrant's ability to practice in a safe and competent manner.

4.1(2) *Conflict of interest.* A registered interior designer may accept compensation for interior design services from more than one party on a project if circumstances are fully disclosed and agreed to in writing by all interested parties.

4.1(3) *Full disclosure.*

a. A registered interior designer shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for registration or renewal of registration.

b. A registered interior designer shall not assist in the application for registration of a person known by the registered interior designer to be unqualified with respect to education, training, experience or character.

c. A registered interior designer engaged in the practice of interior design must act in the best interest of the client and shall not allow integrity, objectivity or professional judgment to be impaired.

d. A registered interior designer with knowledge of a violation of these rules by another registered interior designer shall report such knowledge to the board.

4.1(4) *Professional conduct.*

a. A registered interior designer shall respect the confidentiality of sensitive information obtained in the course of the interior designer's professional activities.

b. A registered interior designer shall not engage in conduct involving fraud, deceit, misrepresentation or dishonesty in the practice of interior design.

c. A registered interior designer shall neither attempt to obtain a contract to provide interior design services through any unlawful means nor assist others in such an attempt.

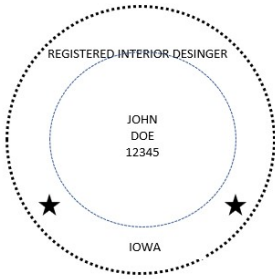
d. A registered interior designer shall neither offer nor make any payment to a governmental official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the interior designer has an interest.

4.1(5) *Seal and certificate of responsibility.*

a. The seal under Iowa Code section 544C.14 shall include:

1. An outside circle with a diameter of approximately 1 ¾ inches.
2. The name of the registered interior designer and the word "Registered Interior Designer".
3. The Iowa registration number and the word "Iowa".

b. The seal will substantially conform to the samples shown below:



c. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

d. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, shall contain an information block on its first page or on an attached cover sheet with application of a seal by the registered interior designer in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature shall be applied only to a final technical submission. Each official copy of a technical submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block shall display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional shall be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

S E A L	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly registered interior designer under the laws of the state of Iowa.</p> <p>_____</p> <p style="text-align: center;">Signature Date</p> <p>Printed or typed name _____</p> <p>Registration number _____</p> <p>My registration renewal date is June 30, _____.</p> <p>Pages or sheets covered by this seal:</p> <p>_____</p> <p>_____</p>
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e. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the registrant's responsibility to ensure, prior to affixing an electronic signature to a technical

submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

f. It is the responsibility of the registered interior designer who signed the original submission for forwarding copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

g. A registered interior designer is responsible for the custody and proper use of the seal. Improper use of the seal may be grounds for disciplinary action.

h. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

This rule is intended to implement Iowa Code chapter 544C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	0 (591 more words)
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

No.

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Department of Inspections, Appeals, and Licensing	Date:	9/1/2023	Total Rule Count:	14
IAC #:	481-34	Chapter/ SubChapter / Rule(s):	137D	Iowa Code Section Authorizing Rule:	137D.2(8)
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-8587

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

- 34.1 – Definition. To define terms referenced in the rule.
- 34.2 – Licensing. To administer portions of 137D.2 by establishing an application process and standards for payments, refunds and reporting of gross sales.
- 34.3 – Physical facilities and equipment. To protect food from contamination and protect the public health of consumers by establishing basic standards for the physical structure, pest control, equipment, water supply, waste disposal and handling of toxic material.
- 34.4 Management and personnel. To protect food from contamination and protect the public health by establishing basic standards for food handlers in the areas of food safety hazard control, training, hygiene and communicable disease.
- 34.5 Receiving, storage, and distribution. To protect public health by establishing basic standard for foods received by the establishment, storage of foods in the establishment and distribution of foods from the establishment.
- 34.6 Food preparation and protection. To protect food from contamination and to protect public health by establishing science-based standards for food protection, temperature control, pH control, and water activity control.
- 34.7 Packaging and labeling requirements. To protect public health by establishing food safety related standards for food labeling.
- 34.8 Sanitation. To protect food from contamination and to protect public health by establishing basic sanitation standards for food contact surfaces and food processing areas.
- 34.9 Maintenance of records by licensee. To protect public health by establishing basic record requirements intended to trace, identify and remove from the market foods that pose an immediate public health risk.
- 34.10 Violations and enforcement. To establish an administrative process to gain compliance with and enforce 137D and IAC 481-34.
- 34.11 Denial, Suspension or revocation of a license. To establish an administrative process to deny, suspend or revoke a license.
- 34.12 Inspection and access to records. To ensure the department’s access to an establishment and to records to complete a thorough inspection.

34.13 Public examination of records. To identify what information collected by the department is public and which is confidential.

34.14 Appeals. To establish an administrative process for an establishment to appeal a decision made by the department.

Is the benefit being achieved? Please provide evidence.

34.1 Yes. The defined terms have been valuable when communicating with applicants and permit holders

34.2 Yes. There are currently over 400 establishments licensed under 137D and we receive new applications regularly.

34.3 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the compliance rate is 98%. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.4 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the initial compliance rate is 93%. The overall compliance rate moves to 98.5% when considering corrections made by the end of the inspection. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.5 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the compliance rate is 100%. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.6 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the compliance rate is 99.5%. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.7 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the initial compliance rate is 93%.The overall compliance rate moves to 98% when considering corrections made by the end of the inspection. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.8 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the initial compliance rate is 93%. The overall compliance rate moves to 94.5% when considering corrections made by the end of the inspection. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.9 Yes. During inspections, these standards are easily communicated to and understood by permit holders. During inspections to date the compliance rate is 97.5%. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.10 Yes. When violations are observed we are able to gain voluntary correction. No suspensions have been issued for licenses covered under this chapter. To date there have not been any reported outbreaks linked to establishments licensed under 137D.

34.11 Yes. No licenses have been suspended or revoked under this chapter. Several license applications remain in pending status awaiting additional information from the applicant, however, no licenses have been denied following a completed inspection.

34.12 Yes. The department has gained access to the establishments and records.

34.13 Yes. There is clarity as to what information is and is not confidential, and applicants have reported they are glad their recipes are considered confidential.

34.14 Yes. The appropriate administrative appeals process is outlined for interested individuals. To date, we have not received any requests for appeals.

What are the costs incurred by the public to comply with the rule?

34.1 None.

34.2 None in addition to the license fee established by 137D.

34.3 This varies based on the individual operations. Commonly equipped residential kitchens and residential equipment meet the standard requirements and additional costs are not incurred if additional capacity or equipment is not needed. However, some operations may need to or choose to purchase additional equipment to meet their needs. Food thermometers are required and most residential kitchens have these. The cost of a reliable thermometer is less than \$20.

34.4 One time cost for required food safety training course. Courses are available for \$10.

34.5 None, unless their existing kitchen equipment is insufficient to achieve safe temperatures.

34.6 None for most operations. However, some operations may incur costs to have certain recipes evaluated. Recipe evaluation is only required when an operation uses pH or water activity instead of temperature to control safety. A recipe evaluation may cost between \$10 and \$45 dollars depending on the type of evaluation.

34.7 This will also vary. There is a cost to packaging and labeling materials and these costs vary widely depending on the method of packaging and types of labels used by the operator.

34.8 There is a cost for cleaning and sanitizing supplies, however, the rule does not require supplies that cost more than general residential cleaning and sanitizing supplies.

34.9 None, unless a civil penalty is imposed due to violations.

34.10 None, unless products need to be removed from sale or recalled due to a risk to public health.

34.11 None.

34.12 None.

34.13 None.

34.14 None.

What are the costs to the agency or any other agency to implement/enforce the rule?

34.1, 34.2, 34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 34.10, 34.11, 34.12, 34.13, 34.14

Licenses issued under this chapter account for 1.6542% of the bureau's licensed establishment inventory and consumes an equivalent % of our budget. This equals an annual cost of \$93,000 to implement and enforce this chapter. We assume similar costs based on the specific inventories of home food processing establishments for local health departments that regulate and enforce this rule under a 28E Agreement with the Department.

Do the costs justify the benefits achieved? Please explain.

34.1, 34.2, 34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 34.10, 34.11, 34.12, 34.13, 34.14.

Yes, the costs justify the benefit achieved.

The CDC estimates that each year 48 million Americans get sick from a foodborne illness, 128,000 are hospitalized and 3,000 die. Currently, Iowa has approximately 1% of the US population. This translates to an estimated 480,000 Iowans that get sick from a foodborne illness, 1,280 hospitalizations and 30 deaths.

An article titled State Estimates for the Annual Cost of Foodborne Illness published in Journal of Food Protection in June of 2015 states the estimated health cost of a foodborne illness in Iowa was \$176 per resident and \$1,154 per case in 2013. The article also used an enhanced model that includes the cost of pain and suffering which nearly doubles these figures to \$301 per resident and \$1,972 per case.

Based on CDC estimate and Iowa's population, the cost of foodborne illness to the State of Iowa is staggering even using the 2013 figures included in the article. Preventing just 1% of the estimated 480,000 foodborne illness in Iowa could result in health cost savings lowans to the tune of \$5.53 million annually (\$1,154 per case X 4800 cases = \$5.53 million).

The cost savings only rise when you figure in the cost of an outbreak for the establishment. An article published in Science News dated April 16, 2018 cited a study from researchers at the Johns Hopkins Bloomberg School of Public Health. The research findings estimated that the cost of a single outbreak for a restaurant could be anywhere from \$4,000 for a small outbreak where 5 people get sick to 1.9 million in which 250 people get sick.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

34.1, 34.2,34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 34.10, 34.11, 34.12, 34.13, 34.14.

The Department researched alternatives when establishing these rules in 2022. We researched home processed food sales and regulations in other states. It was determined that this chapter and the residential food operations covered in this chapter are fairly unique to Iowa. There are several other states that have similar cottage food law to Iowa in which non-temperature controlled for food safety (non-TCS) foods can be sold direct to the consumer. However, under 137D, a licensed home food processing establishment can sell both temperature control for safety foods (TCS) directly to consumers and wholesale and non-TCS foods on a wholesale basis. This is in addition to selling cottage food as defined under 137F.

Our research showed that there are only two states, and none surrounding Iowa, that have laws allowing TCS foods prepared in a residential kitchen to be sold on a wholesale basis, Oregon and Wyoming. Of these two states, Oregon's law is most comparable to Iowa's 137D in that the home kitchens are required to be licensed and inspected where Wyoming's law does not require licensing or inspections. Oregon's approach is that licensed "domestic kitchens" must meet Title 21 CFR Part 117, which are the same federal regulations that a commercial food processing plant is required to meet.

The Department considered using the Oregon approach whereby we would adopt either Title 21 CFR Part 117 or the 2017 FDA Model Food Code. These two sets of regulations are applicable to Iowa commercial food operations. However, we determined that some of the provisions for commercial food operations would be more difficult to apply in a residential kitchen and be more costly for the operator. Additionally, the expected scope of operations of a home food processing establishment was anticipated to be smaller in scale and more focused on fewer products and processes, therefore, we chose to develop a more simplified set of rules that would protect public health, be easily applied in a typically-equipped residential kitchen, and written in a manner that would be easily understood by the public.

We incorporated both science and national research in to the rules. The science includes established food safety parameters such as time and temperature control, pH, water activity, and frequency of cleaning that are know to destroy or control spread and growth of pathogens. National research has shown that food operations that have developed and implemented their own food safety management systems are less likely to cause a foodborne illness.

In the development of the rules we chose a more “self-regulated” approach for the home food processing establishment, where the rules are more focused on ensuring the operators identify and control food safety hazards in their own operation and less of a focus on specific physical facilities and equipment requirements that may be different depending on the scope of each operation. In addition to protecting public health, the rules developed by the Department are written in a simple manner that is easy for the public to understand. The approach used was the least restrictive approach identified to accomplish the benefit.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, the chapter has been revised to reduce word count and restrictive terms in accordance with the goals of Executive Order 10 .

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 34
HOME FOOD PROCESSING ESTABLISHMENTS

481—34.1(137D) Definitions. As used in this chapter, unless the context otherwise requires:

“*Acidified foods*” means low-acid foods to which an acid or high-acid food is added. Acidified foods have a water activity (a_w) greater than 0.85 and have a finished equilibrium pH of 4.60 or below. These foods may be called or may purport to be “pickles” or “pickled.”

“*Active water*” or “*water activity*” or “(a_w)” means the measured free moisture in a food. The quotient of the water vapor pressure of the food divided by the vapor pressure of pure water at the same temperature provides the measured free moisture in the food.

“*Adulterated*” means the same as stated 21 U.S.C. section 342.

“*Allergen cross contact*” means the unintentional incorporation of a food allergen into a food.

“*Contractor*” means a municipal corporation, county, or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137D.

“*Cross contamination*” means the inadvertent transfer of bacteria or other contaminants from one surface, substance, etc., to another, especially because of unsanitary handling procedures.

“*Demonstrate control*” means the ability to provide clear and convincing evidence that a home food processing establishment has implemented written standard processes and practices that are intended to control food safety hazards including but not limited to standardized recipes, standard operating procedures, personal hygiene standards, temperature monitoring records, equipment calibration records, production or batch records, sanitation records, predefined corrective actions, training documents, distribution records, and receiving records.

“*Department*” means the same as Iowa Code section 137D.1.

“*Equilibrium pH*” means the final pH measured in a food after all the components of the food have achieved the same acidity.

“*Fermentation*” means a metabolic process in which an organism converts a carbohydrate, such as starch or a sugar, into

an alcohol or an acid. For example, yeast performs fermentation by converting sugar into alcohol. Bacteria perform fermentation by converting carbohydrates into lactic acid.

“*Fish*” means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

“*Food*” means the same as defined in Iowa Code chapter 137D.

“*Food contact surface*” means a surface of equipment or utensil with which food normally comes into contact; or a surface of equipment or utensil from which food may drip, drain, or splash into a food or onto a surface normally in contact with food.

“*Game animal*” means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2 or as poultry or fish.

1. “*Game animal*” includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

2. “*Game animal*” does not include ratites.

“*HACCP plan*” means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

“*High-acid food*” means a food that has an equilibrium pH of 4.60 or lower without the addition of an acid.

“*Home food processing establishment*” or “*establishment*” means the same as defined in Iowa Code Chapter 137D.

“*Homemade food item*” means the same as defined in Iowa Code 137D. Homemade food items do not include the following:

1. Unpasteurized fruit or vegetable juice;
2. Raw sprout seeds;
3. Foods containing game animals;
4. Fish or shellfish;
5. Alcoholic beverages;
6. Bottled water;
7. Packaged ice;
8. Consumable hemp products;
9. Food that will be further processed by a food processing plant or another home food processing establishment;
10. Time/temperature control for safety food packaged using a reduced oxygen packaging method;
11. Milk or milk products regulated under Iowa Code chapters 192 and 194;
12. Meat or meat food products, and poultry or poultry products regulated under Iowa Code chapter 189A, except for any of the following products when sold directly to the end consumer:
 - Poultry, poultry byproduct, or poultry food product if the producer raised the poultry pursuant to the exemption set forth in 9 CFR 381.10(c)(1) limiting the producer to slaughtering not more than one thousand poultry during the calendar year;
 - Poultry, poultry byproduct, or poultry food product if the poultry is from an inspected source exempted pursuant to 9 CFR 381.10(d); or
 - Meat, meat byproduct, or meat food product if the meat is from an inspected source exempted pursuant to 9 CFR 303.1(d); or
13. A raw agricultural commodity. Other than raw bean or seed sprouts, raw agricultural commodities do not require a license issued by the department to sell and may be sold by home food processing establishments, although they are not homemade food items.

“*Low-acid canned food*” means a thermally processed low-acid food packaged in a hermetically sealed container.

“*Low-acid food*” means any food, other than alcoholic beverages, with a pH greater than 4.60 and (a_w) greater than 0.85.

“*Major food allergen*” means milk, egg, fish, crustacean shellfish (such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, soybeans, and sesame; or a food ingredient that contains protein derived from these foods.

“*Packaged*” means bottled, canned, cartoned, bagged, or wrapped. “*Packaged*” does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

“*pH*” means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity, and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

“*Produce*” means the same as defined in Iowa Code chapter 137D.

“*Raw agricultural commodity*” means the same as defined in 21 U.S.C. 321.

“*Ready-to-eat food*” means any food that is normally eaten in its raw state or any other food, including a processed food, for which it is reasonably foreseeable that the food will be eaten without further processing that would significantly minimize

biological hazards.

“*Recall*” means an action taken when a food producer takes a product off the market because there is reason to believe the product may cause consumers to become ill.

“*Reduced oxygen packaging*” means reducing the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21 percent at sea level). Reduced oxygen packaging includes vacuum packaging, modified atmosphere packaging, controlled atmosphere packaging, cook chill packaging, and sous vide packaging.

“*Shellfish*”

1. “Crustacean shellfish” means crab, lobster and shrimp.

2. “Molluscan shellfish” means any edible species of oysters, clams, mussels, or scallops.

“*Special dietary use food*” includes a food that contains an artificial sweetener, except when specifically and solely used for achieving a physical characteristic in the food that cannot be achieved with sugar or other nutritive sweetener or a food that is used for the following:

1. Supplying particular dietary needs that exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

2. Supplying particular dietary needs that exist by reason of age including but not limited to the ages of infancy and childhood; or

3. Supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

“*Sprouts*” means seeds or beans used to grow sprouts that are harvested with their seed or root intact.

“*Standardized recipe*” means a recipe that has been tried, adapted, and retried several times for use by a given food service operation and has been found to produce the same good results and yield every time when the exact procedures are followed with the same type of equipment and same quantity and quality of ingredients. At a minimum, a standardized recipe includes the recipe name, listing of each ingredient, a measurement of each ingredient, equipment and utensils used, preparation instructions, and procedures to ensure the safety of the food.

“*Time/temperature control for safety*” or “*TCS*” means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. TCS food does not include foods that have an equilibrium pH less than 4.60 or an active water (a_w) content below 0.85. Examples of TCS foods include:

1. Animal food that is raw or heat-treated.

2. Plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or garlic-in-oil mixtures.

“*Traceback*” means to determine and document the distribution and production chain, and the source(s) of a product that has been implicated in a foodborne illness investigation.

481—34.2(137D) Licensing.

34.2(1) Application for license. A person shall not operate a home food processing establishment until a license has been obtained from the department or a contractor. Application for a license shall be made on a form furnished by the department containing the name of the business, name of the owner, physical address of the business, and list of all homemade food items the home food processing establishment intends to prepare. Applications for a license shall be completed using the department’s online application system at least 30 days prior to the anticipated opening of the home food processing establishment. If extenuating circumstances exist that prevent the applicant from completing the online application paper applications are available from the department or its contractors.

34.2(2) Homemade food item disclosure. Homemade food items not listed on the application shall not be sold or distributed. New homemade food items may be added to an application at any time using the online application system or by submission of a paper form to the department or a contractor.

34.2(3) Transferability. A license is not transferable to a new owner or location. Any change in business ownership or business location requires a new license.

34.2(4) Refunds. License fees are refundable only if the license is surrendered to the department or a contractor prior to the effective date of the license. License fees are not refundable for a new home food processing establishment if a record review has occurred.

34.2(5) Expiration and renewal. A home food processing establishment license, unless sooner suspended or revoked, expires one year after the application for license is approved by the department or a contractor. A renewal should be submitted through the department’s online registration system with the required fee prior to expiration.

34.2(6) *Renewal 60 days or more after expiration.* A delinquent license will only be renewed if application for renewal is made within 60 days of expiration. If a delinquent license is not renewed within 60 days, an establishment shall apply for a new license and meet all of the requirements for an initial license. An establishment that has not renewed the license within 60 days of expiration will be closed by the department or a contractor.

34.2(7) *Documentation of gross sales.* The license holder shall maintain documentation of annual gross sales of homemade food items and provide it to the regulatory authority upon request. Documentation of gross sales includes at least one of the following and will be kept confidential:

- a. A copy of the establishment's business tax return;
- b. Four quarters of gross sales of homemade food items;
- c. A letter from an independent tax preparer; or
- d. Other records documenting annual gross sales of homemade food items.

34.2(8) *Returned payments.* The department or contractor will attempt to redeem a payment submitted for an establishment that is not honored by the bank on which it is drafted and will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 will be assessed for each dishonored payment. If the department or contractor does not receive payment, the establishment will be operating without a valid license.

481—34.3(137D) Physical facilities and equipment.

34.3(1) The floors, walls, ceilings, utensils, equipment, and supplies in the food processing and storage areas, and all vehicles used in the transportation of homemade food items, shall be maintained clean and in good repair.

34.3(2) Outer openings shall be protected by tight fitting doors, windows, or screens.

34.3(3) Dogs, cats, or other pets and animals shall be excluded from entering food preparation areas when food is being processed or packaged.

34.3(4) Persons unnecessary to the production of homemade food items are not allowed in food processing areas while homemade food items are exposed or being produced.

34.3(5) Adequate lighting and ventilation shall be available in all areas where food is processed or stored.

34.3(6) An establishment shall have an adequate supply of hot and cold potable water under pressure from an approved and safe source. In addition:

- a. There shall be no direct or indirect connection of safe and unsafe water;
- b. If the residence is not served by a public water system, the water shall be tested at least annually for nitrates and coliforms;
- c. In the event a water test shows coliforms are present or nitrates are at an unsafe level, the establishment shall cease operations and notify the regulatory authority. The establishment will not resume operations until approved by the regulatory authority; and
- d. If the establishment's water source is under a water advisory indicating the water may be unsafe to consume, it shall not produce homemade food items until the advisory is lifted.

34.3(7) There shall be a conveniently located sink in each food processing area that is maintained clean and accessible for handwashing during production and packaging, and supplied with hot and cold running water, hand soap, and sanitary towels.

34.3(8) An establishment shall have adequate equipment, such as a sink or dishwasher, to wash, rinse, and sanitize utensils.

34.3(9) There shall be conveniently located toilet facilities, equipped with a handwashing sink supplied with hot and cold running water, hand soap and sanitary towels or a hand-drying device.

34.3(10) All waste and waste water produced by the establishment shall be disposed of in a sanitary manner in compliance with applicable laws. If the home food processing establishment has a waste backup, it shall cease operation and notify the regulatory authority. It will not resume preparation of homemade food items until approved by the regulatory authority.

34.3(11) All garbage and refuse shall be kept in containers and removed from the premises regularly to eliminate insects and rodents, offensive odors, or other health hazards. Garbage and refuse containers shall be durable, easy to clean, insect- and rodent-resistant, and of material that neither leaks nor absorbs liquid.

34.3(12) Food processing and storage areas shall be free of pests. Pesticides, if used, shall be approved for use in commercial food establishments, clearly labeled, and used as directed by the manufacturer.

34.3(13) Hazardous chemicals or other toxic materials shall be stored, applied and used as directed by the manufacturer in a manner that protects food, equipment, and food contact surfaces from contamination.

34.3(14) Refrigeration and hot holding equipment design and capacity shall be adequate to maintain safe temperature control, including safe cooling temperatures, to prevent cross contamination and allergen cross contact, and protect food from other sources of contamination. Dedicated refrigeration or hot holding equipment may be required if shared equipment is inadequate to maintain food safety.

34.3(15) All refrigeration and hot holding units shall be equipped with an accurate thermometer.

34.3(16) Appropriate thermometers shall be used to accurately measure the internal temperature of food during processing, holding, and storage.

34.3(17) All food contact surfaces shall be intended for use with food, made of safe materials, easy to clean, smooth, durable, nonabsorbent, and noncorrosive.

481—34.4(137D) Management and personnel.

34.4(1) *Person in charge.* There shall be a person in charge of operations during all hours of food processing who has a thorough understanding of food safety principles and is able to demonstrate control over food safety hazards including:

- a. Time/temperature controls for cooking, hot holding, cooling, cold holding, and reheating foods;
- b. Cross contamination during storage and preparation;
- c. Major food allergens and allergen cross contact;
- d. Sanitation of food contact surfaces;
- e. Food handling, hygienic practices, and communicable diseases;
- f. Receiving and distribution; and
- g. If applicable, pH and (a_w).

34.4(2) *Food safety training.* The person in charge shall attend a food safety training course approved by the department and provide proof of attendance prior to the issuance of a home food processing establishment license.

34.4(3) *Exclusions from handling food.* Food handlers shall be excluded from handling food, utensils, or packaging materials in the following instances:

- a. If they are diagnosed with a communicable or contagious disease that can be transmitted through food;
- b. If they have experienced diarrhea or vomiting in the past 24 hours;
- c. If they are jaundiced;
- d. If they have a sore throat with a fever; or
- e. If they have exposed sores or infected wounds on their hands or arms.

34.4(4) *Hygienic practices.*

- a. All food handlers must keep themselves and their clothing clean, hair effectively restrained, and hands washed as often as necessary to protect food and food contact surfaces from contamination;
- b. Ready-to-eat foods must not be handled with bare hands; and
- c. Eating, drinking, and use of tobacco is not permitted in food processing areas while homemade food items are exposed or being produced.

481—34.5(137D) Receiving, storage, and distribution.

34.5(1) *Receiving.* All foods and ingredients shall be obtained from an approved source and have been produced in compliance with applicable law. Honey from an unlicensed establishment and eggs from the establishment's own flock may be used in the preparation of homemade food items. All food shall be received in sound condition; at safe temperatures; free from spoilage, filth, or other contamination; unadulterated; and safe for human consumption.

34.5(2) *Storage.* Food storage areas shall be clean and located in an area which protects the food from contamination at all times. All food products shall be stored off of the floor. If removed from the original container, foods shall be stored in labeled and closed containers that are of a material that will not cause the food to become adulterated.

34.5(3) *Distribution.*

- a. Foods containing raw or undercooked foods of animal origin will not be sold or distributed in a ready-to-eat form.
- b. Foods produced in a home food processing establishment shall not be distributed for further processing by a food processing plant or another home food processing establishment.
- c. Time/temperature control for safety homemade food items shall be maintained at safe temperatures during shipping and transportation to an end consumer, a mobile food unit, farmers market food establishment, or a temporary food establishment operated by the same owner as the home food processing establishments.
- d. Time/temperature control for safety homemade food items sold or distributed to other businesses for resale shall be maintained at or below 41°F during shipping and transportation.
- e. No one may produce, distribute, offer for sale, or provide adulterated food to the public. Adulterated food shall be disposed of in a reasonable manner approved by the department.

481—34.6(137D) Food preparation and protection.

34.6(1) *Food protection.* Foods shall be processed, stored, and distributed in a manner that protects food from contamination, including cross contamination from the environment, and allergen cross contact.

34.6(2) *Cooking.* All animal foods or foods containing animal products, if cooked, shall be cooked to an internal temperature sufficient to destroy organisms which are injurious to health. Homemade food items shall not contain raw or

undercooked animal foods except for packaged raw meat or poultry items labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.6(3) Holding. All time/temperature control for safety foods shall be held at an internal temperature of 41°F or less or 135°F or higher to control bacterial growth or toxin formation.

34.6(4) Cooling.

a. Time/temperature control for safety foods that have been heat-treated shall be cooled from 135°F to 70°F within two hours and from 70°F to 41°F within an additional four hours. Total cooling time shall not exceed six hours.

b. Time/temperature control for safety foods prepared with ingredients above 41°F shall be cooled to 41°F or below within four hours from the beginning of preparation.

34.6(5) Reheating.

a. Homemade food items that are time/temperature control for safety and have been previously heated and cooled shall be reheated to an internal temperature of 165°F within two hours or less.

b. Commercially processed time/temperature control for safety foods shall be reheated to 135°F within two hours or less.

34.6(6) Preparation methods.

a. High-acid foods that are produced and sold by the establishment and that are controlled by pH, such as barbeque sauce, condiments, and dressings, may be produced as homemade food items if:

- (1) The products have been produced following a standardized recipe;
- (2) The product does not contain more than 10 percent low-acid food ingredients by weight;
- (3) The product recipe including the name and weight of each ingredient is submitted and approved by the regulatory authority;

(4) The equilibrium pH of each batch is tested with a calibrated pH tester designed for use with food. The pH shall be below 4.60, and the pH value shall be recorded on a production or batch record; and

(5) The product is adequately heated to destroy spoilage organisms.

b. Dried foods that are produced and sold under the home food processing establishment license that are controlled by active water (a_w) such as dehydrated or freeze-dried food may be produced as a homemade food item if:

- (1) The products have been produced following a standardized recipe;
- (2) The homemade food items do not contain raw or undercooked foods of animal origin;
- (3) Each batch is tested for active water (a_w) or the standardized written procedure for each homemade food item has been validated to ensure the final product is at or below 0.85 (a_w).

c. Jams, jellies, preserves, and fruit butters that are produced and sold under the home food processing establishment license shall meet the standard of identity specified in 21 CFR Part 150 and be produced following a standardized recipe. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets the standard of identity when requested by the regulatory authority.

d. Nonstandardized fruit jellies shall be produced following a standardized recipe and made with 45 parts of fruit to 55 parts of sugar and concentrated to 65 percent soluble solids. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

e. Nonstandardized nonfruit jellies shall be produced following a standardized recipe and shall have a soluble solids content of 65 percent. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

f. Standardized sweeteners and table syrups shall meet the standard of identity specified in 21 CFR Part 168. The home food processing establishment shall provide documentation that a product meets this requirement when requested by the regulatory authority.

g. A home food processing establishment that wishes to prepare foods using fermentation shall submit a HACCP plan to the department that has been validated by a recognized process authority such as those provided on the department's website. A home food processing establishment shall not ferment food until the department has approved the HACCP plan.

h. A home food processing establishment shall not engage in the following processes to produce homemade food items:

- (1) Low-acid canning (e.g., canned vegetables);
- (2) Acidification to produce shelf-stable acidified foods (e.g., salsa, pickled vegetables, hot sauce);
- (3) Curing (e.g., bacon, jerky, meat sticks); or
- (4) Smoking food for preservation rather than flavor enhancement.

481—34.7(137D) Packaging and labeling requirements.

34.7(1) Legible labels. All required labeling information shall be legible and in a location that is easily identifiable by the consumer.

34.7(2) Labels and packaging on homemade food items, exception. A homemade food item shall be packaged in the home food processing establishment, and all required labeling shall be affixed to the homemade food item before it is delivered to the consumer, with the exception of a homemade food item picked up by the consumer in person at the home food processing establishment. In the case of the exception, the homemade food item shall still be protected from contamination and all required labeling information shall be provided to the consumer.

34.7(3) Raw meat and poultry products. Packaged homemade food items that contain raw meat or poultry shall be labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.7(4) Expiration date. Refrigerated time/temperature control for safety homemade food items that are ready-to-eat foods shall be labeled with an expiration date not to exceed seven days from the date of preparation, and the date of preparation is counted as day one. Time/temperature control for safety homemade food items may be labeled with an expiration date that exceeds seven days if the expiration date has been determined to be safe by an accredited food science institution and documentation is provided to the regulatory authority upon request.

34.7(5) Contents.

a. Homemade food items will be identified as required by 137D.2(7).
b. Labels or other marketing materials associated with homemade food items must be truthful and not misleading.
c. Claims on labels or other marketing materials associated with homemade food items that are related to the following must conform to the United States Food and Drug Administration's (FDA's) Food Labeling Guide. A link to the labeling guide may be found on the Department's website or on the FDA's website.

- (1) Health claims;
- (2) Qualified health claims;
- (3) Nutrient content claims (i.e., low sodium, high fiber, low fat, sugar free); or
- (4) Structure/function claims.

d. Homemade food items labeled or marketed as a special dietary use food will conform to 21 CFR Part 105. The home food processing establishment shall provide documentation, such as a nutritional analysis by an accredited food laboratory, to the regulatory authority upon request.

e. Labels or other marketing materials shall not contain any claims that the homemade food item can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease.

481—34.8(137D) Sanitation.

34.8(1) There shall be sufficient means to clean, rinse, and sanitize all multi-use food contact surfaces. Cleaners and sanitizers used for these purposes shall be intended and approved for use in a commercial food establishment.

34.8(2) All food contact surfaces shall be clean to sight and touch when not in use.

34.8(3) All food contact surfaces shall be cleaned and sanitized:

- a. Between each use;
- b. At least every four hours if under continuous use to control microbial growth;
- c. At a frequency necessary to prevent cross contamination; and
- d. At a frequency necessary to prevent allergen cross contact.

34.8(4) If chemical sanitizers are used, they shall be used according to the manufacturer directions for use and a means shall be provided for testing the proper level of chemical concentration, such as test strips designed specifically for the chemical being used.

34.8(5) Food processing, handling, and storage areas shall be neat; clean; and free from excessive accumulation of product, dust, trash, and unnecessary articles.

481—34.9(137D) Maintenance of records by licensee.

34.9(1) An establishment shall maintain standardized recipes for each homemade food item.

34.9(2) An establishment shall maintain production or batch records that include, at a minimum, product name, date of production, and date of packaging, with the exception of made-to-order food.

34.9(3) An establishment shall maintain records of foods received as ingredients including, at a minimum, the name and address of the supplier, name of the ingredient, and date received. A receipt of purchase is a sufficient record if it contains all of the required information.

34.9(4) An establishment shall maintain distribution records of all homemade food items that are distributed for resale including the product name, the name and address of the business where the homemade food items were distributed, the date distributed, the quantity distributed, and the date the homemade food item was produced.

34.9(5) An establishment not served by a public water system shall maintain records of annual water tests.

34.9(6) If the establishment produces homemade food items that require food safety parameters to be monitored throughout production, such as temperature, pH, or (a_w), the testing instruments shall be used as directed by the manufacturer and calibrated for accuracy according to the manufacturer's instructions. Monitoring results shall be documented as part of the batch record.

34.9(7) An establishment shall maintain all required records for a minimum of six months. All required records shall be made available for official review or copying upon request by the regulatory authority.

481—34.10(137D) Violations and enforcement.

34.10(1) All violations shall be corrected within a time frame not to exceed 90 days. The license holder shall make a written report to the regulatory authority, stating the action taken to correct the violation, within five days of correction.

34.10(2) An establishment that violates this chapter or Iowa Code chapter 137D is subject to a civil penalty as set forth in Iowa Code section 137D.

34.10(3) The department may employ various remedies response to violations including, but not limited to: civil penalty; suspending or revoking the license; injunction; embargo, stop-sale, or recall orders.

481—34.11(137D) Denial, suspension, or revocation of license.

34.11(1) *Denial, suspension, or revocation of a license.* Denial, suspension, or revocation of a license is effective 30 days after mailing or personal service of the notice. The department may suspend or revoke a license as set forth in Iowa Code section 137D.8. A certified copy of a final order or judgment of conviction or plea of guilty is conclusive evidence of a conviction.

A deferred judgment, until discharged, is a conviction for purposes of this rule.

34.11(2) *Immediate suspension of license.* To the extent not inconsistent with Iowa Code chapters 17A and 137D and rules adopted pursuant to those chapters, the department or contractor may immediately suspend a license in cases of an imminent health hazard, as defined by chapter 8 of the 2017 FDA Food Code (the "food code"). The procedures of Iowa Code section 17A.18A and chapter 8 of the food code shall be followed in cases of an imminent health hazard.

481—34.12(137D) Inspection and access to records.

34.12(1) Home food processing establishments will be periodically inspected based on a risk assessment basis, either in person or virtually using video technology.

34.12(2) The regulatory authority may enter a food processing establishment at any reasonable hour to make the inspection. The regulatory authority will inspect only those areas related to preparing or storing food for sale. The manager or person in charge of the establishment shall afford free access to records and every part of the premises where homemade food items and ingredients are stored or prepared and render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete inspection.

481—34.13(137D) Public examination of records.

34.13(1) *Public information.* Information collected by the department and its contractors is public information unless otherwise provided for by law. Records are stored in computer files and are not matched with any other data system. Inspection reports are available for public viewing at iowa.safefoodinspection.com.

34.13(2) *Confidential information.*

a. The following are examples of confidential records:

- (1) Trade secrets and proprietary information including items such as formulations, standardized recipes, processes, policies and procedures, and customer lists;
- (2) Health information related to foodborne illness complaints and outbreaks;
- (3) The name or any identifying information of a person who files a complaint with the department; and
- (4) Other state or federal agencies' records.

b. A party claiming that information submitted to the department contains trade secrets or proprietary information should clearly mark those portions of the submission as confidential/trade secret.

34.13(3) *Other agencies' records.* Requests for records of other state or federal agencies will be referred to the appropriate agency.

481—34.14(137D) Appeals.

An establishment may contest adverse action taken pursuant to this chapter by submitting a request for hearing to the department within 30 days of the mailing or service of the department's action. Appeals and hearings are governed by 481—Chapter 9. For contractors, license holders shall have the opportunity for a hearing before the local board of health. If the hearing is conducted before the local board of health, the license holder may appeal to the department and shall follow the process for review in rule 481—9.3(10A,17A).

These rules are intended to implement Iowa Code chapter 137D.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	877
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	38

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 29, 2023	Total Rule Count:	17
IAC #:	641	Chapter/ SubChapter/ Rule(s):	22	Iowa Code Section Authorizing Rule:	135.37
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-25-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The overall benefit of this chapter is to ensure public safety by having a properly trained workforce. The rules establish the general provisions, sanitation and infection control methodology, equipment needed, and proper procedures in order to prevent the spread of infection and disease. The rules also provide various types of permits, including tattoo establishment permits, temporary establishment permits, and mobile tattoo unit permits. The goal of the multiple types of permits is to ensuring the operators identify and control for public health hazards while accommodating variations in specific physical facilities depending on the scope or type of each operation

641—22.1(135) Purpose. To provide a general statement of purpose for the chapter.

641—22.2(135) Definitions. To define terms referenced in the rule.

641—22.3(135) General provisions. To set forth primary, pertinent provisions applicable to all types of permittees.

641—22.4(135) Sanitation and infection control. To protect against bloodborne pathogen contamination and other public health concerns by establishing basic sanitation standards.

641—22.5(135) Equipment. To provide guidance as to specific sanitation of equipment or the use of single-use products.

641—22.6(135) Procedures. To set forth operating procedures to protect the health and safety of tattoo artists and patrons and the privacy of patrons,

641—22.7(135) Permit issuance and renewal. Provide clarity as to the process of obtaining and renewing permits.

641—22.8(135) Fees. To establish a schedule of fees to defray the costs of the program as required by Iowa Code section 135.37

641—22.9(135) Tattoo establishment permit requirements; 641—22.10(135) Tattoo artist permit requirements; 641—22.11(135) Temporary establishment permit requirements; and 641—22.12(135) Mobile tattoo unit permit requirements. To establish and delineate between the types of permits available and specific requirements or information needed to obtain such permits.

641—22.13(135) Agreements. To describe that the department may enter into agreements with local boards of health to provide for inspection of tattooing establishments and enforcement activities pursuant to Iowa

Code section 135.37(6).

641—22.14(135) Inspection requirements. To set forth inspection fees, identify common procedures whether the department or a contracting agency is performing the inspection, and necessary action in response to investigation findings.

641—22.15(135) Tattoo inspector qualifications. To ensure that tattoo inspectors are certified through an appropriate blood-borne pathogen training program.

641—22.16(135) Enforcement. To describe potential enforcement actions and procedures related to enforcement.

641—22.17(135) Adverse actions and the appeal process. To describe the types of circumstances that may result in adverse action and the process for contesting any adverse action.

Is the benefit being achieved? Please provide evidence.

Overall, the benefits of this chapter are being achieved. As a general matter, artist, establishment owners, and the industry know the requirements and qualifications for establishments and artists. Notably, however, significant material has been edited or repealed as the benefit is not found to justify the rule as set forth below.

641—22.1(135) “Purpose” and 641—22.13(135) “Agreements” are proposed for repeal as they are unnecessary in light of Iowa Code section 135.17.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public to comply with these rules. Any costs associated with this chapter are incurred by the establishments and tattoo artists in the course of obtaining and maintaining their permits. The education requirements ensure that the individuals are trained and refreshed on bloodborne pathogens and first aid. These costs are relatively minor when compared to the need to protect the artist, their patrons and the public. Both courses are available online through the Red Cross for \$35 and \$37, respectively. Notably, other jurisdictions require much more intensive education courses or training requirements, including 1,200 training hours (Kansas) and 200 required practice hours under a licensed supervisor (Minnesota).

Furthermore, permit and inspection fees are incurred to defray the costs of the program in accordance with Iowa Code section 135.37. These fees range from \$75 for a tattoo artist, to \$100 for a tattoo establishment, and temporary tattoo establishment fee based on the number of participating artists ranging from \$100 for 10 artists to \$300 for more than 100 artists.

In Nebraska, the initial and renewal fees for tattoo artists are \$95 and \$118, respectively, and are \$150 for body art facilities, with a \$50 reinspection fee. In Minnesota, the body art establishment license fee is \$1,500 and the body art technician license is \$420.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to implement or enforce include the costs of personnel utilized to process permits or conduct inspections, or to contract for any such work. There is one contract employee and one vacant FTE to process the permits, coordinate with the local inspectors, and administer the program. There is one FTE

that includes tattoo inspection duties in Polk County. There is also a cost for the database that houses all of the information needed for permitting tattoo artist and establishments.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs generally appear to justify the benefits achieved.

Iowa Code section 135.37 prohibits any person from owning, controlling, leasing, acting as an agent for, conducting, managing, or operating an establishment to practice the art of tattooing or engaging in the practice of tattooing without first applying for and receiving a permit from the requires that the department. It also requires the department establish minimum safety and sanitation criteria for the operation of tattooing establishments. The safety and sanitation criteria that the department has promulgated are reasonable and appropriate for the protection of the public health and safety, while being reasonable and affordable for individuals engaging in the practice of tattooing.

With respect to fees, specifically, neighboring states have similar or increased fee requirements as set forth above. Neighboring states also have similar or increased training and education requirements. Furthermore, in the development of the rules the department was cognizant of accommodating variations in specific physical facilities depending on the scope or type of each operation while maintaining necessary standards to ensuring the operators identify and control for public health hazards and the health and safety of their patrons. In addition to protecting public health, the rules have been edited and written in a simple manner that is easy for the public to understand. The costs justify the benefits achieve and the approach used was the least restrictive approach identified to accomplish the benefit.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, every rule within the chapter has been edited to remove such language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—22.1(135) Purpose.

641—22.13(135) Agreements.

CHAPTER 22
PRACTICE OF TATTOOING

641—22.2(135) Definitions. For the purpose of these rules, the following definitions apply:

“*Aftercare*” means written instructions given to a client, specific to the procedures rendered, on care for the tattoo and surrounding area and guidance on when to seek medical treatment.

“*Department*” means the same as Iowa Code section 135.61(5).

“*Director*” means the same as Iowa Code section 135.1(1).

“*Disinfectant*” means a U.S. Environmental Protection Agency (EPA)-registered antimicrobial product that is applied to surfaces to destroy microorganisms that are living on the surface but not necessarily bacterial spores.

“*Imminent health threat*” means a condition or conditions that exist in a tattoo establishment and needs immediate action to prevent endangering the health of people.

“*Impervious*” means nonporous, impenetrable, smooth, and washable.

“*Inspection agency*” means the department or a city, county or district board of health that has executed an agreement with the department to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“*Mobile tattoo unit*” means a mobile establishment or unit that is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“*Residential dwelling*” is a place or structure intended to be occupied as a residence.

“*Single use*” means intended for one-time use and disposed of after use on a client. Single-use products or items include cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves. Cloth towels and linens are not “single use” and are barred.

“*Sterilization*” means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores that demonstrate tuberculocidal activity.

“*Tattoo artist*” means any person, including a permanent color technologist, engaged in the practice of tattooing.

“*Tattoo establishment*” means the building or portion of the building designated by the owner where tattooing is practiced.

“*Tattooing*” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs. “Tattooing” includes permanent color technology that is the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes. “Tattooing” does not include applying a tattoo for radiological purposes.

“*Temporary establishment permit*” means a permit issued by the department to perform tattoo procedures at a temporary event.

“*Temporary event*” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than 14 days consecutively in conjunction with a single event or celebration to which the general public is invited.

641—22.3(135) General provisions.

22.3(1) Tattoo artists and tattoo establishments that fail to meet the criteria of Iowa Code section 135.37 or these rules are guilty of a serious misdemeanor.

22.3(2) Compliance with Iowa Code section 135.37 and these rules does not exempt tattoo artists and tattoo

establishments from other applicable state or local laws.

22.3(3) Tattooing may only be practiced in facilities that have applied for and received a tattoo establishment permit pursuant to Iowa Code section 135.37.

22.3(4) Notwithstanding local zoning codes, where zoning codes exist, tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage. New tattoo establishments must be in commercial buildings where zoning ordinances exist. A waiver will be granted to any tattoo establishment in a residential dwelling if it has been operating continuously since being granted a permit prior to January 1, 2010.

22.3(5) Tattoo establishments are inspected annually.

641—22.4(135) Sanitation and infection control. Tattoo establishments shall comply with the following:

22.4(1) Tables, chairs, and other general-use equipment in the tattoo area is constructed of impervious and easily cleanable material.

22.4(2) A sink for hand washing supplied with potable hot and cold running water under pressure to a mixing-type faucet is easily accessible in the tattooing area. Hand-washing facilities are supplied with liquid soap and single-use towels or hand dryer.

22.4(3) Easily accessible toilet facilities with a sink for hand washing are available for employee use and patron use.

22.4(4) The tattoo establishment has an area of at least 300 square feet and is adequately lighted and ventilated.

22.4(5) Floors in the tattoo area are finished with an impervious, washable surface.

22.4(6) The entire premises and all facilities used in connection therewith are maintained in a clean, sanitary, vermin-free condition and in good repair.

22.4(7) All refuse is stored in rigid containers with plastic liners and are emptied at least once each business day.

22.4(8) Closed cabinets or containers are exclusively used for the storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

22.4(9) Smoking is not allowed pursuant to Iowa Code chapter 142D.

22.4(10) Consumption of food or drink is not allowed in the tattoo area.

22.4(11) Intoxicating beverages or controlled substances will not be used, consumed, served, possessed, or distributed on the establishment's premises.

22.4(12) Tattoo artists not currently permitted in the state of Iowa will not tattoo in the establishment.

22.4(13) No animals, except service animals, are permitted in a tattoo establishment. Aquariums containing fish are allowed in waiting rooms and non-tattoo areas.

641—22.5(135) Equipment. Tattoo establishments shall maintain equipment in a clean and sanitary condition and comply with the following:

22.5(1) Cups to hold ink or dye are for single-patron use. Any ink or dye, once dispensed into an ink cup, is disposed of immediately following use.

22.5(2) Any dye or ink in which needles were dipped are not used on another person.

22.5(3) All tubes, tips and grips used for the tattoo procedure that are not sterile, not for single-patron use, and not disposable are physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another person. Steam sterilization is at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure of 15 pounds per square inch. Dry-heat sterilization is at 350 degrees Fahrenheit (170 degrees Celsius) for one hour. Steam sterilization is preferred.

22.5(4) All instruments needing sterilization are sterilized on site. All instruments to be sterilized are placed in closed pouches after sterilization is complete. The pouches are dated effective for 30 days, after which the instruments are resterilized and the pouches redated.

22.5(5) Sterilizers are monitored monthly for spores of *Bacillus subtilis*, and records of results are maintained for three years. Written procedures to follow in the event of positive spore tests are maintained and implemented, including:

- a. In the event of a positive spore test, materials processed in that sterilizer, dating from the sterilization cycle having the positive biological indicator to the next cycle showing satisfactory biologic indicator challenge results, are considered nonsterile and are reprocessed before being used.
- b. A sterilizer that has received a positive spore test is immediately removed from service.
- c. Prior to putting a sterilizer that has received a positive spore test back into service, the owner ensures that there is evidence of one negative spore test.
- d. The owner notifies the inspection agency of a positive spore test within 24 hours of receiving the test result.

22.5(6) Establishments are equipped with a puncture-resistant, leakproof container designated for disposal of used needles and other sharps. The container is red and labeled with the “biohazard” symbol and is closeable for handling, storage, transportation, and disposal. A written plan for disposal is maintained in the establishment.

22.5(7) Any bottles of solution are labeled as to contents and used according to manufacturers’ directions.

22.5(8) Single-use razors for removal of unwanted hair are disposed of after use on one patron. Electric razors used to remove unwanted hair of a patron are cleaned with a brush and fungicidal/tuberculocidal disinfectant spray.

22.5(9) Topical ointments are prepared for single-patron use.

641—22.6(135) Procedures. Tattoo establishments shall comply with the following:

22.6(1) Tattoo establishments will establish a written standard operating procedure (SOP) that includes the process for setup and tear down of tattoo procedures. The SOP focuses on procedures of hygiene and cross-contamination control.

22.6(2) For privacy purposes and at the patron’s request, establishments have in place or readily available a nontransparent panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons.

22.6(3) Tattoo artists scrub their hands thoroughly before beginning the tattoo procedure. Tattoo artists dry their hands with individual single-use towels or hand dryer.

22.6(4) Tattoo artists wear clean garments and disposable latex, nitrile, chloroprene, or vinyl gloves during the tattoo procedure. Gloves are changed after each tattoo. Tattoo artists wash their hands before and after each tattoo procedure.

22.6(5) All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure have appropriate barrier films covering them, including clip cords, squeeze bottles, seat adjustment controls, power control dials or buttons, and work lamps.

22.6(6) The skin area to be tattooed is first cleansed with soap and water. Single-use towels or sponges (gauze) are used during the cleansing procedure.

22.6(7) Before placing the tattoo design on the patron’s skin, the tattoo artist prepares the skin with 70 percent ethyl or isopropyl alcohol solution or an equally effective antiseptic or antimicrobial.

22.6(8) Tattooing is not performed on any area where there is evidence of skin infection, irritation, or abnormalities.

22.6(9) After the tattooing is completed, the tattoo artist:

- a. Applies an adequate dressing or bandage to the tattoo area.
- b. Provides to the persons tattooed printed aftercare instructions regarding tattoo care during the healing process.
- c. Thoroughly cleans the machine head with an acceptable disinfectant and sprays an acceptable surface disinfectant over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.

641—22.7(135) Permit issuance and renewal. The following apply to applications for a permit to practice as a tattoo artist or as a tattoo establishment.

22.7(1) An applicant will complete either an online application or a paper application according to the

instructions contained in the application. Paper applications are available to download at the Departments website. Each application must be accompanied by the appropriate fee as set forth in rule 22.8(2) to be processed. A paper application is accompanied by the appropriate fee payable by check or money order to the department. Online application fees are paid by credit card only. An application that includes insufficient or incorrect fees is considered incomplete. If the applicant is notified that the application is incomplete, the applicant should contact the department within 90 days. Incomplete applications are considered invalid and destroyed after 90 days.

22.7(2) Documentation of medical conditions and criminal convictions related to the practice of the profession shall include a full explanation from the applicant. No application is considered complete until the applicant responds to any program requests for additional information regarding the applicant's medical condition or criminal conviction.

22.7(3) All permits expire on December 31 for the year issued. An applicant will submit a completed application, supporting documentation, and renewal fee annually by December 1 for renewal. The permit holder has a current permit in possession before performing tattooing. An applicant who submits a renewal application after December 1 will be obligated to pay an additional \$25 for each month delinquent.

22.7(4) The permit holder is responsible for renewing the permit prior to its expiration.

22.7(5) A permit that has not been renewed within 90 days of the permit expiration date will automatically be deactivated. There will be a \$25 reinstatement fee charged for reactivating a permit in addition to the renewal fee.

641—22.8(135) Fees.

22.8(1) All fees are nonrefundable.

22.8(2) Fees for all initial and renewal applications are as follows:

a. Tattoo artist: \$75.

b. Tattoo establishment: \$100.

c. Temporary tattoo establishment:

(1) 0 to 10 participating artists: \$100.

(2) 11 to 100 participating artists: \$200.

(3) 101 or more participating artists: \$300.

d. Mobile tattoo unit: \$100.

e. Mobile tattoo event: \$25 per event.

f. Tattoo establishment change of ownership: \$25.

g. Tattoo establishment change of location: \$25.

h. Mobile tattoo unit change of location: \$25.

641—22.9(135) Tattoo establishment permit criteria.

22.9(1) No tattoo establishment may operate in the state without having a permit to operate issued by the department. Permits shall be posted in a conspicuous location in the tattoo establishment.

22.9(2) A person applying for a tattoo establishment permit will submit a floor plan of the establishment with the application.

22.9(3) A permit to operate is issued to a new establishment when the department or its representative has successfully completed an on-site inspection.

22.9(4) Tattoo establishment permits are nontransferable.

22.9(5) A tattoo establishment shall retain a record of all persons who have had tattoo procedures performed at the establishment. Records include the client's name and date of birth, copy of client's identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client. Records shall be retained in a confidential manner for a minimum of three years and made available to the department or inspection agency upon request.

22.9(6) Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit a change in ownership application and fee for a new permit. An on-site inspection will be

completed before a permit to operate will be issued.

22.9(7) Within 30 days of a change of location of a tattoo establishment, the owner shall submit a change of location application and a fee for a new permit. An on-site inspection will be completed by the inspection agency before a permit to operate will be issued.

641—22.10(135) Tattoo artist permit criteria.

22.10(1) No person may perform tattooing without a current permit to operate issued by the department.

22.10(2) Each permit issued is in effect solely for the tattoo artist named thereon and remains with the tattoo artist upon any change of employment. Tattoo artist permits are nontransferable.

22.10(3) An applicant for a tattoo artist permit must be at least 18 years of age and submit government-issued documentation to show proof of attaining the age of 18 years.

22.10(4) A tattoo artist must provide proof of current certification by the American Red Cross for blood-borne pathogens and standard first aid or other equivalent, nationally recognized certification.

22.10(5) Permits shall be posted in a conspicuous place in the tattoo establishment.

641—22.11(135) Temporary establishment permit criteria.

22.11(1) A person must submit a temporary tattoo establishment application form, a floor plan of the facility, promotional documentation for the event, and the appropriate fee at least 30 days prior to the event to obtain a temporary establishment permit. Fees are based on the number of participating tattoo artists. The application specifies the following:

- a. The purpose for which the permit is requested.
- b. The period of time during which the permit is needed (not to exceed 14 calendar days per event).
- c. The fulfillment of tattoo artist criteria as specified in 641—22.10(135). A list of participating tattoo artists shall be sent to the tattoo program no later than one week prior to the event.
- d. The location at which the temporary event will be held.

22.11(2) The temporary event must be inside a permanent building and comply with the following

a. Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under pressure to a mixing-type faucet are provided. Drainage in accordance with local plumbing codes are provided.

b. A minimum of 80 square feet of floor space is provided for each booth.

c. There is sufficient lighting where the tattoo procedure is being performed.

d. All tubes, tips and grips used for the tattoo procedure that are not single use are properly sterilized and dated 30 days or less prior to the date of the event. Evidence of a spore test performed on the sterilization equipment is dated 30 days or less prior to the date of the event. Single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers are allowed.

e. Tattoo artists properly clean and sanitize the area used for tattoo procedures.

f. Floors of the tattooing area(s) are smooth and impervious or covered with an impermeable barrier.

22.11(3) The facility where the temporary event will be held must be inspected by the designated inspection agency and issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.

22.11(4) No animals, except service animals, are allowed in the temporary establishment at any time.

22.11(5) Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with these rules.

22.11(6) Temporary establishment permits and tattoo artist permits shall be posted in a conspicuous place in the temporary establishment.

641—22.12(135) Mobile tattoo unit permit criteria. No new mobile tattoo units will be permitted. Mobile tattoo units granted a permit prior to September 7, 2016, may continue to operate with a current permit provided they remain compliant with the rules of this chapter. Mobile tattoo units and tattoo artists working from mobile tattoo units shall comply with the following:

22.12(1) No mobile tattoo unit is operated in the state without having a permit to operate issued by the department.

22.12(2) All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Artist permits are posted in a conspicuous location in the mobile tattoo unit.

22.12(3) Mobile tattoo unit permits are posted in a conspicuous place in the mobile tattoo unit.

22.12(4) Mobile tattoo unit permits are nontransferable.

22.12(5) Within 30 days of a change of address of where the mobile tattoo unit is housed, the owner submits a new application and a fee for a new permit.

22.12(6) Inspections will be conducted by the local jurisdiction in which the mobile tattoo unit is housed. Any out-of-state mobile tattoo units maintaining an Iowa mobile tattoo unit permit must be inspected annually.

22.12(7) Mobile tattoo units are permitted for use only at temporary events lasting 14 calendar days or less. Permits are obtained at least 14 days prior to the event, and no tattoo procedures are performed before a permit is issued. Promotional documentation of the event is included with the application. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license criteria.

22.12(8) The mobile tattoo unit is maintained in a clean and sanitary condition at all times. Doors are tight-fitting. Openable windows have tight-fitting screens.

22.12(9) Mobile tattoo units meet the sterilization criteria in accordance with 641—22.5(135).

22.12(10) Mobile tattoo units are used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated from such areas by an impervious floor-to-ceiling barrier.

22.12(11) Mobile tattoo units are equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures. The hand sink is supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer. An adequate supply of potable water is maintained for the mobile tattoo unit at all times during operation. The source of the water and storage of the tank(s) is also identified.

22.12(12) All liquid wastes are stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes are disposed of at a publicly owned treatment works site approved by the department of natural resources (IDNR).

22.12(13) Restroom facilities are available at the temporary event or within the mobile tattoo unit. A hand sink is available within a reasonably acceptable distance from the restroom. The hand sink is supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels or hand dryer.

22.12(14) All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Permits are posted in a conspicuous location in the mobile tattoo unit.

22.12(15) No animals, except service animals, are allowed in the mobile tattoo unit at any time.

641—22.13(135) Inspections.

22.13(1) An inspection fee of \$250 is due upon receipt of a notice of payment due, which will be billed by the inspection agency upon completion of an inspection.

22.13(2) Tattoo establishments are inspected annually and the reports of inspections maintained by the inspection agency for three years.

22.13(3) When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency are paid to the local inspection agency or its designee.

22.13(4) When an inspection agency determines that a special inspection is necessary, such as a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee based on the actual cost of providing the inspection.

22.13(5) Unpaid inspection fees are delinquent 30 days after the date of the bill. A late fee of \$30 per month

will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

22.13(6) Failure to allow an inspection is grounds for denial or suspension of a tattoo establishment's permit.

22.13(7) If an imminent health threat exists, the inspection agency or the department may, , order the establishment to cease operation immediately pursuant to Iowa Code section 17A.18A. Operation shall not be resumed until authorized by the inspection agency or the department.

22.13(8) Safety data sheets (SDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment and made available upon request.

22.13(9) The most recent routine inspection report, along with any reinspection reports, shall be posted in a location at the establishment that is readily visible to the public.

641—22.14(135) Tattoo inspector qualifications. Tattoo inspectors shall have successfully completed a blood-borne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization, documentation of which is maintained by the local inspection agency.

641—22.15(135) Enforcement. The inspection agency may take the following steps when enforcement of these rules is necessary.

22.15(1) Owner notification. The inspection agency shall will provide written notification to the owner of the establishment that:

- a. Cites each section of the Iowa Code or rule of the Iowa Administrative Code violated.
- b. Specifies the manner in which the owner or operator failed to comply.
- c. Specifies the steps needed for correcting the violation.
- d. Requests a corrective action plan, including a time schedule for completion of the plan.
- e. Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the establishment must respond.

22.15(2) Corrective action plan review. The inspection agency will review the corrective action plan and approve it or direct modifications.

22.15(3) Failure to comply. If the owner of a tattoo establishment, mobile tattoo unit, or temporary establishment fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 135 or local ordinances.

641—22.16(135) Adverse actions and appeals.

22.16(1) Failure to abide by Iowa Code section 13C.37 or this chapter may result in adverse action, including the or denial or revocation of a permit, or an order to cease operations until necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may refer the matter to the county attorney or attorney general for injunction, criminal penalties, or other appropriate action.

22.16(2) The following are particular instances that may result in adverse action as set forth in subrule (1):

- a. Any material misstatement in the application, renewal, or any supplementary statement.
- b. Failure to pay fees in accordance with this chapter.
- c. Operation without a current permit.
- d. Falsification of records, qualifications, or other information related to permitting approval.
- e. Failure to correct any violation identified during an inspection and jeopardizes public safety.
- f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts which may constitute unethical conduct include:

- (1) Verbally or physically abusing a patron.
- (2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a patron. Sexual harassment includes sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a

sexual nature.

(3) Betrayal of a professional confidence.

(4) Engaging in a professional conflict of interest.

g. Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.

h. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

i. Knowingly aiding, assisting or advising a person to unlawfully practice tattooing.

j. Representing oneself as a tattoo artist when one's permit has been denied, suspended, revoked, lapsed, or placed on inactive status.

k. Mental or physical inability reasonably related to and adversely affecting the tattoo artist's ability to practice in a safe and competent manner.

l. Habitual intoxication or addiction to drugs, including habitual or excessive use of drugs or alcohol that impair a tattoo artist's ability to practice with reasonable skill or safety.

m. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

n. Violating a statute of this state or another jurisdiction relating to the provision of tattooing, including but not limited to crimes involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

o. Having a certification or permit to practice tattooing suspended or revoked, or other disciplinary action taken by a licensing, certifying, or permitting authority in any jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

p. Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

q. Failure to appropriately respond to written communication from the department sent by registered or certified mail.

22.16(3) Notice of issuance of a denial, revocation, or order to cease operations will be served by certified mail, return receipt requested, or by personal service.

22.16(4) An aggrieved party may request a contested case appeal in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. 481—Chapters 9 and 10 are applicable to contested case appeals.

These rules are intended to implement Iowa Code section 135.37.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1,640
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	192

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	8
IAC #:	641	Chapter/ SubChapter/ Rule(s):	23	Iowa Code Section Authorizing Rule:	105.4(2); 105.5; 105.10; 105.21
Contact Name:	Ashleigh Hackel	Email	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—23.1(105) Definitions. – The intended benefit is to define terms needed to understand this chapter.

641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders. – The rule implements Iowa Code sections 105.10, 105.14, 105.16, 105.18, and 105.20. The intended benefit is to establish expectations for licensees, ensure the board has accurate information about licensees, prohibit licensees from working on a lapsed license, and limit licensees’ practice to the appropriate scope of their license.

641—23.3(105) Contractor license. – The rule implements Iowa Code sections 105.10, 105.14, 105.16, 105.18, 105.19, and 105.22. The intended benefit is to establish the requirements for the contractor license including the master of record, surety bond, public liability insurance and contractor registration pursuant to Iowa Code 91C, and establish the place of business, the license requirements, and the supervision requirements.

641—23.4(105) Master license. – The intended benefit of this rule is to establish the master of record requirements, including limiting master to only one contractor unless the master receives prior board approval. The rule also establishes notification responsibilities for masters when a master is no longer associated with a contractor as well as supervision requirements

641—23.5(105) Journeyman license. – The intended benefit is to establish the supervision requirements for a journeyman license and lay out the scope of practice for a journey license.

641—23.6(105) Apprentice license. – The intended benefit is to establish the terms of practicing with an apprentice license, including supervision requirements and laying out the appropriate scope of practice. The rule also prohibits apprentices from simultaneously holding as a specialty license.

641—23.7(105) Specialty licenses and certifications. – The intended benefit is to establish the qualifications for specialty licenses and the scope of practice for specialty licenses.

641—23.8(105) Inactive license. – The intended benefit is to establish inactive license status and explain that an inactive license is not valid for practice.

Is the benefit being achieved? Please provide evidence.

Overall, the benefits of the chapter are being achieved. As a general matter, licensees and the industry know the expectations for licensure and supervision. There are 11, 629 licensed individuals and 2,035 licensed businesses. In 2022, the board received 68 complaints which resulted in 97 investigations. The board issued 66 disciplinary actions, including 59 for unlicensed work. The rules provide consistent guidance to and appropriate regulation of the industry to meet the public safety goals espoused by Iowa Code chapter 105 and these implementing rules.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public to comply with these rules. Any costs associated with this chapter are incurred by licensees in the course of obtaining and maintaining their licenses.

641—23.1(105) Definitions. – No costs associated with this rule.

641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders. – Any costs to the licensee to comply with this rule would be de minimis administrative costs such as any costs associated with providing updated information to the board.

641—23.3(105) Contractor license. – Costs to the licensee to comply with this rule may include costs of obtaining insurance and surety bonds, which are required by Iowa Code sections 105.19 and 105.20; de minimis costs associated with notifications to the board; and the costs of maintaining a permanent place of business as required by Iowa Code section 105.18, although any costs associated therewith could vary greatly by operator. Any other costs are associated with the substantive standards required by Iowa Code chapter 105.

641—23.4(105) Master license. – Any costs to the licensee to comply with this rule would be de minimis administrative costs, such as notifications to the board, or costs associated with the profession as to substantive standards required by Iowa Code chapter 105.

641—23.5(105) Journeyman license. – Any costs attributable to this rule are merely associated with the profession and substantive standards required by Iowa Code chapter 105.

641—23.6(105) Apprentice license. – Any costs attributable to this rule are merely associated with the profession and substantive standards required by Iowa Code chapter 105.

641—23.7(105) Specialty licenses and certifications. – The specialty certifications require maintenance of valid certifications based on standard known national authorities or an equivalent authority approved by the board. The costs thereof vary depending on the educational institution administering the certification.

641—23.8(105) Inactive license. Any costs to the licensee to comply with this rule would be de minimis administrative costs, such as notifications to the board.

What are the costs to the agency or any other agency to implement/enforce the rule?

The board has an investigator that follows up on any alleged violations of the rules of this chapter as required by Iowa Code section 105.28. There are also costs for the database that houses all of the information needed for licensure.

Do the costs justify the benefits achieved? Please explain.

Yes, the rules themselves add very little cost beyond any costs substantively incurred due to the requirements of Iowa Code chapter 105. Furthermore, the cost of licensing is relatively small when compared to benefit of having properly trained and supervised workforce in this industry. When using properly licensed businesses and individuals the public can have confidence that this important work is done safely and correctly. There are bonding and insurance requirements in cases where work is not done properly, the costs of which are statutorily required to be borne by the licensees. The bonding and insurance requirements protect the public from economic harm resulting from incomplete work and incentivizes licensees to complete work using ethical business practices.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Prior to statewide licensing in 2010, local jurisdictions had their own licensing requirements or none at all. There was no uniformity and businesses and individuals often had to have multiple licenses for multiple jurisdictions. There is now uniformity for licensing and the entire industry is following the same rules due to the requirements of Iowa Code chapter 105 and rules discussed herein that clarify and implement it. The rules discussed herein are already believed to be the least restrictive implementation of Chapter 105.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule was edited in association with the goals of EO 10 and outdated, duplicative, and unnecessary language was removed.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None repealed in this chapter.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 23
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

641—23.1(105) Definitions. The definitions set forth in Iowa Code section 105.1 are incorporated herein by reference. For purposes of these rules, the following additional definitions apply:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

“*Lapsed license*” means a license that has expired. A lapsed license is no longer valid for practice.

“*Licensee*” means a person holding a license issued by the board, including an apprentice, journey person, or master license in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronics trades; a combined license; a special, restricted sublicense; or a medical gas certificate.

“*Master of record*” means an individual possessing an active master license under Iowa Code chapter 105 who shall be responsible for the proper designing, installing, and repairing of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems and who is actively in charge of the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work of a contractor.

641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders.

23.2(1) While conducting business or performing work covered under Iowa Code chapter 105, each licensee will keep a copy of the licensee’s board-issued license on the licensee’s person or in an easily retrievable area at the work site.

23.2(2) Each licensee will maintain a residential or business address on record with the board. In the event the licensee’s residential or business address changes, the licensee will so notify the board.

23.2(3) Each licensee will apply for and obtain all applicable permits prior to performing any work covered under Iowa Code chapter 105 as may be mandated by any law, ordinance, or regulation of this state, or a political subdivision therein.

23.2(4) A licensee will present upon request a copy of the licensee’s board-issued license issued under Iowa Code section 105.12(2).

23.2(5) A licensee possessing a lapsed license cannot operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a medical gas system installer or work in a specialty license discipline until the license is reinstated and renewed.

23.2(6) Each licensee will perform all Iowa Code chapter 105-covered work in conformity with the applicable professional code.

23.2(7) A licensee will not perform any Iowa Code chapter 105-covered work for which the licensee does not possess the requisite license.

23.2(8) A licensee will conform to the minimum standard of acceptable and prevailing practice and will exercise the degree of workmanlike care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

23.2(9) A licensee who utilizes the services of an unlicensed person as a helper will be responsible for the work performed by the helper and shall ensure that such work conforms to the minimum standard of acceptable and prevailing practice.

641—23.3(105) Contractor license. A contractor licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.3(1) Master license. A contractor will not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC-refrigeration, or hydronic systems unless at all times the contractor holds or employs at least one person holding an active master license issued by the board for each discipline in which the contractor conducts business. Without prior board approval, a contractor will not knowingly utilize a master licensee to meet this requirement if the master licensee is simultaneously associated with another contractor in that discipline.

a. Notwithstanding subrule 23.3(1), in the event a licensed master of record’s employment with the contractor is terminated, or the master of record otherwise discontinues the master of record’s relationship with the contractor, or the master of record’s master license is lapsed, suspended, revoked, expired, or otherwise invalidated, the contractor may continue to provide plumbing, mechanical, HVAC-refrigeration, or hydronic systems services for a period of up to six months without identifying a new master of record.

b. To utilize the six-month grace period set forth in paragraph 23.3(1)“*a,*” a contractor will notify the board of the

contractor's loss of the master of record within 30 days from the date the master of record is no longer associated with the contractor, absent exigent circumstances.

23.3(2) *Display of license.* A person holding a contractor license will keep the current license certificate publicly displayed in the primary place in which the person practices.

23.3(3) *Surety bond.* A person or entity holding a contractor license must maintain during the licensing period a surety bond issued by an entity licensed to do business in Iowa in a minimum amount of \$5,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the surety bond. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the surety bond, and the surety bond must cover all plumbing or mechanical work performed by the legal entity. The surety bond mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the surety bond can be canceled.

23.3(4) *Public liability insurance.* A person or entity holding a contractor license must maintain during the licensing period public liability insurance issued by an entity licensed to do business in Iowa in a minimum amount of \$500,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the public liability insurance. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the public liability insurance, and the public liability insurance must cover all plumbing and mechanical work performed by the legal entity. The public liability insurance mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the public liability insurance can be canceled.

23.3(5) *Contractor registration with the department.* A contractor will maintain registration as a contractor with the director pursuant to Iowa Code chapter 91C by providing the board with the necessary information.

23.3(6) *Permanent place of business.* A contractor will maintain a permanent place of business, the address of which will be provided to the board. If a contractor changes the permanent place of business, the contractor will provide the board the new address within 30 days of the change.

23.3(7) *Licensure.* A contractor will not knowingly allow an employee to perform work covered under Iowa Code chapter 105 without the applicable license.

23.3(8) *Supervision.* A contractor will not knowingly allow an apprentice employed by the contractor to perform work covered under Iowa Code chapter 105 without supervision of the apprentice by a master or journeyman who is also employed by the contractor and who is licensed in the discipline in which the apprentice is performing such work.

641—23.4(105) Master license. A master licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.4(1) *Contractor relationship.* A master may only be a master of record for one contractor in any particular discipline at any one time, except that a contractor or a master may seek prior board approval to serve as the master of record for more than one contractor in a particular discipline. An individual who possesses master licenses in multiple disciplines may be a master of record for multiple contractors so long as the individual is only a master of record for one contractor in any particular discipline at one time.

23.4(2) *Contractor.* A master will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.4(3) *Supervision.* A master who superintends the design, installation, or repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems will be available to supervise journeymen or apprentices as needed and may only provide such supervision in the discipline or disciplines in which the master is licensed. A master will not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

23.4(4) *Master of record.* A master who serves as a master of record for a contractor and who disassociates from the contractor will notify the board and the contractor of the disassociation, if notice was not previously provided, within 30 days from the date of disassociation, absent exigent circumstances.

641—23.5(105) Journeyman license. A journeyman licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.5(1) *Working under supervision.* A journeyman will work under the supervision of a master licensed in the discipline of the work being performed in the design, installation, and repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems.

23.5(2) *Contractor.* A journeyman will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.5(3) *Supervision.* A journeyman who superintends one or more apprentices may only provide such supervision in

the discipline(s) in which the journey person is licensed and only while performing work for the same contractor licensed under Iowa Code chapter 105. A journey person shall not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

641—23.6(105) Apprentice license. An apprentice licensed under Iowa Code chapter 105 will adhere to the following mandates, the violation of which may give rise to disciplinary action:

23.6(1) Working under supervision. An apprentice may only perform work covered under Iowa Code chapter 105 under the supervision of a master or journey person.

23.6(2) Contractor. An apprentice will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.6(3) Dual licensure as an apprentice barred. A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

641—23.7(105) Specialty licenses and certifications.

23.7(1) Medical gas certification.

a. A person who possesses a medical gas certification and who performs medical gas brazing will maintain the person's brazing continuity.

b. A person who possesses a medical gas certification will maintain the person's valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.

23.7(2) Hearth systems specialty license.

a. A person who possesses a hearth systems specialty license will maintain the person's valid certification issued from the National Fireplace Institute or equivalent authority approved by the board.

b. A hearth systems specialty license allows a licensee to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within three feet of the appliance. A hearth systems specialty license further allows for work in the venting systems associated with a hearth appliance, log lighters, gas log sets, fireplace inserts, and freestanding stoves. A hearth systems specialty license does not allow a licensee to install a shutoff valve or perform any other mechanical or HVAC-refrigeration work.

c. A person possessing a hearth systems specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(3) Service technician HVAC specialty license.

a. A licensee who holds a service technician HVAC specialty license by demonstrating the licensee possesses a valid certification from North American Technical Excellence, Inc. or an equivalent authority approved by the board will maintain valid certification from North American Technical Excellence, Inc. or an equivalent authority approved by the board.

b. A service technician HVAC specialty license allows a licensee to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than three feet from the appliance. A service technician HVAC specialty license does not allow a licensee to perform any other mechanical or HVAC-refrigeration work.

c. A person possessing a service technician HVAC specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(4) Disconnect/reconnect plumbing technician specialty license.

a. A disconnect/reconnect plumbing technician specialty license allows a licensee to perform work from the appliance shutoff valve or the fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than three feet from the appliance or fixture. A disconnect/reconnect plumbing technician specialty license does not allow a licensee to perform any other plumbing work.

b. A person possessing a disconnect/reconnect plumbing technician specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license,

and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(5) Private school or college routine maintenance specialty license.

a. A private school or college routine maintenance specialty license allows a licensee to perform routine maintenance within the scope of the licensee’s employment with a private school or college. For purposes of this subrule, “routine maintenance” means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas, or steam piping permanent repairs except for traps and strainers. Routine maintenance includes emergency repairs. Routine maintenance does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

b. A person possessing a private school or college routine maintenance specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person’s specialty license, and will not perform work within the limited scope of the person’s specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(6) Dual licensure as an apprentice prohibited. A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

641—23.8(105) Inactive license.

23.8(1) A person possessing an inactive license under 641—subrule 29.2(6) will not perform any plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work for which licensure is mandated so long as the person’s license is held in inactive status.

23.8(2) A person possessing an active journeyman/inactive master license under 641—subrule 29.2(5) will not perform any plumbing, mechanical, HVAC-refrigeration, or hydronic work for which a master license is mandated so long as the person’s master license is held in inactive status.

23.8(3) Inactive specialty license.

a. A person possessing an active specialty license under rule 641—23.7(105) will submit a written request to place the specialty license on inactive status in order to obtain an active apprentice license. The licensee will acknowledge that the licensee is unable to perform any work covered under Iowa Code chapter 105 outside of the apprenticeship program.

b. Notwithstanding 641—subrule 28.1(3), a person possessing both an inactive specialty license and an active apprentice license need not pay a renewal fee for the inactive specialty license so long as the person remains actively licensed as an apprentice.

c. Notwithstanding 641—subrule 30.2(2), a person possessing an inactive specialty license and an active apprentice license need not obtain any continuing education hours for renewal so long as the person remains actively licensed as an apprentice.

d. A person possessing both an inactive specialty license and an active apprentice license may surrender the apprentice license and reactivate the specialty license upon written request and payment of the fee for an active specialty license in the amount specified in 641—Chapter 28.

These rules are intended to implement Iowa Code sections 105.10, 105.14, 105.16, 105.18, 105.19, 105.20, and 105.22

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	262
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	68

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	8
IAC #:	641	Chapter/ SubChapter/ Rule(s):	26	Iowa Code Section Authorizing Rule:	135K
Contact Name:	Ashleigh Hackel	Email	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—26.1(135K) Applicability. To explain to whom the chapter applies.

641—26.2(135K) Definitions. To define terms used in this chapter.

641—26.3(135K) Registration required. To explain that persons testing or repairing a backflow prevention assembly must be registered.

641—26.4(135K) Backflow prevention assembly tester training. To explain the approval process and requirements for persons or organizations planning to conduct or sponsor backflow prevention assembly tester training courses and/or continuing education training. To explain the approval process and requirements for agencies that wish to be a third-party certification agency.

641—26.5(135K) Registration. To explain the requirements for registration as a backflow prevention assembly tester, including fees and registration processes.

641—26.6(135K) Standards of conduct. To explain the standards that registered testers must meet, including record keeping and methods of testing.

641—26.7(135K) Penalty. To explain criminal penalties for those who violate the chapter.

641—26.8(135K) Denial, probation, suspension or revocation. To explain the criteria for denial, probation, suspension or revocation of registration, training course approval, or approval as a third-party certification agency. To explain the appeal process.

Is the benefit being achieved? Please provide evidence.

Yes, it appears the intended benefit of all rules is being achieved, with the exceptions noted below:

641—26.1(135K) Applicability. The content appears to be sufficiently covered by Iowa Code chapter 135K and the remainder of the chapter. This rule has thus been repealed. Notably, however, the rule has been replaced by a specific rule related to returned check fees as that language applied to various fees referenced throughout the chapter.

641—26.5(135K) Registration. The fee table currently utilized is overly complicated due to a set renewal time period and proration associated therewith. Fee submissions and dates of registration expiration have been simplified without being substantively changed as far as the fee incurred or length of registration term.

641—26.8(135K) Denial, probation, suspension or revocation. This rule goes into significant detail explaining the process for contested case appeals, which is unnecessary in light of other applicable chapters that can simply be referenced. Accordingly, this rule has been significantly edited.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public to comply with these rules. Any costs associated with this chapter are incurred by those seeking approval of training courses, or registration as a backflow prevention assembly tester.

Fees are incurred to defray the costs of administering the program, in accordance with Iowa Code section 135K.4. Fees do not exceed the costs of administering the program.

641—26.1(135K) Applicability. N/A

641—26.2(135K) Definitions. N/A

641—26.3(135K) Registration required. The costs of registration as a backflow prevention assembly tester.

641—26.4(135K) Backflow prevention assembly tester training. A person or organization that plans to conduct or sponsor a backflow assembly tester training course must pay fees for (1) approval of the course (\$200), (2) notification prior to the start of an approved course (\$50), or (3) approval of a continuing education course (\$50). An agency that wishes to be a third-party certification agency must pay fees for approval (\$200).

641—26.5(135K) Registration. The costs include registration and renewal fees for persons registering with the department. Fees range from \$18 to \$72.

641—26.6(135K) Standards of conduct. Registered testers may incur costs associated with recordkeeping requirements.

641—26.7(135K) Penalty. None.

641—26.8(135K) Denial, probation, suspension or revocation. Costs may be incurred by those who appeal the department's action.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to implement or enforce the chapter include the costs of personnel utilized to process applications and investigate complaints, or to contract for any such work. There is one contract employee and one vacant FTE to process the registrations and administer the program. There is also a cost for the database that houses all of the information needed for backflow registrations.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs generally appear to justify the benefits achieved.

Iowa Code section 135K.3 prohibits a person from testing or repairing backflow prevention assemblies without first having registered with and been approved by the department. Iowa Code section 135K.4 requires the department to establish minimum qualifications for registered backflow prevention assembly testers and minimum standards for approved courses. The qualifications and criteria that the department has promulgated are reasonable and appropriate for the protection of public health and safety, while being reasonable and affordable for those offering courses and those seeking registration.

With respect to fees, the fees currently charged do not exceed the costs of administering the program and

are in line with neighboring states when adjusted for term. For example, Minnesota charges a backflow prevention tester fee of \$28 annually (new and renewal) or \$38 (late) and a \$30 returned check fee. Iowa's fee is \$72 for a two-year term, amounting to \$36 annually, with a \$15 returned check fee.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

As set forth above, the department believes that Chapter 26 is already the least restrictive option for implementation of Iowa Code chapter 135K.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, every rule within the chapter has been edited to remove such language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 26
BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

641—26.1(135K) Definitions.

“*ABPA*” means the American Backflow Prevention Association.

“*Administrative authority*” means an individual, board, department, or agency employed by a city, county or other political subdivision of the state and authorized by local ordinance to administer and enforce the provisions of the plumbing code.

“*Approved continuing education course*” means a department-approved course designed to supplement or refresh the knowledge of a registered tester and to meet the requirements of subparagraph 26.5(2) “a”(2).

“*Approved training course*” means a department-approved course designed to train individuals to test and repair backflow prevention assemblies.

“*ASSE*” means the American Society of Sanitary Engineering.

“*AWWA*” means the American Water Works Association.

“*Backflow prevention assembly,*” for the purposes of this chapter, means a device or means to prevent backflow into a potable water system for which a method of testing the device in-line has been published by the Foundation of Cross-Connection Control and Hydraulic Research at the University of Southern California.

NOTE: The following assemblies are included under this definition. This is not intended to be an exclusive list. If new devices and test methods are introduced that meet the definition, they are included under the rules.

Backflow Prevention Assembly	Product Standards
Double Check Valve Assembly	ASSE 1015-2011,

	AWWA C510-07
Double Check Detector Assembly	ASSE 1048-2011
Pressure Vacuum Breaker	ASSE 1020-2011
Reduced Pressure Principle Backflow Preventer	ASSE 1013-2011, AWWA 511-07
Reduced Pressure Detector Assembly	ASSE 1047-2011
Spill Resistant Pressure Vacuum Breaker	ASSE 1056-2013

“*Certified*” means certified as a backflow prevention assembly tester under the requirements of ABPA or another third-party certification agency.

“*Department*” means the same as Iowa Code section 135K.1(3).

“*Proctor*” means an individual designated by a third-party certification agency to conduct certification examinations of backflow prevention assembly testers.

“*Registered backflow prevention assembly tester*” or “*registered tester*” means the same as Iowa Code section 135K.1(4).

“*Third-party certification agency*” means the ABPA, ASSE or another agency approved by the department to certify the knowledge and skills of backflow prevention assembly testers.

641—26.2(135K) Registration. No person shall test or repair a backflow prevention assembly unless the person is a registered backflow prevention assembly tester.

641—26.3(135K) Returned checks. Any person who submits a check to the department that is returned for insufficient funds will incur a \$15 fee.

641—26.4(135K) Backflow prevention assembly tester training.

26.4(1) Tester training.

a. A person or organization that plans to conduct or sponsor a backflow prevention assembly tester training course in Iowa shall apply to the department for approval of the course at least 15 days before the first time the course is held, using an application form provided by the department and submitted a \$200 nonrefundable fee.

b. The department will review the application and respond to the applicant within 10 business days after receipt.

c. The person or organization responsible for the course content shall submit to the department any changes in the information set forth in paragraph 26.4(1) “*a*” every five years, no later than 30 calendar days before the end of the fifth year.

d. The course sponsor shall notify the department at least 15 days before an approved training course begins. The notification will include:

(1) Sponsoring organization name and website, contact person, mailing address, email address, and telephone number.

(2) Course dates and times.

(3) Course location, including street address.

(4) A \$50 nonrefundable fee.

e. A training course shall:

(1) Be at least 32 instructional hours and cover the following minimum subjects:

1. Backflow definitions, causes and examples.

2. Description of backflow prevention assemblies, their proper application and installation, and their operational characteristics.

3. Description and operational characteristics of test equipment.

4. Techniques for testing backflow prevention assemblies.
5. Troubleshooting of backflow prevention assemblies.
6. Record keeping and the responsibilities of regulatory agencies and the registered tester.

(2) Conclude with a written examination of at least 100 questions and a practical examination of testing techniques on all types of testable backflow prevention assemblies. The time for testing is in addition to the instructional hours. A score of at least 70 percent on the written examination and demonstration of proficiency in testing and troubleshooting procedures constitutes successful completion of the course. Approved third-party certification agency testing may be substituted for the course test.

f. The lead course instructor shall have documentation of successfully completed an approved training course or be certified, and have at least three years of experience in cross connection control.

g. The testing laboratory for a training course shall be equipped with the following:

(1) Examples of each of the backflow prevention assemblies from at least three different manufacturers. If fewer than three manufacturers make a type of backflow prevention assembly, at least one example of that type of backflow prevention assembly.

(2) At least one double check valve assembly and one reduced pressure principle assembly larger than two inches.

(3) At least one test station per three students.

26.4(2) Continuing education training.

a. A person or organization that plans to conduct or sponsor a continuing education course for registered testers in Iowa shall apply to the department for approval of the course at least 15 days before the course is scheduled to begin, using an application form provided by the department and submitted with a \$50 nonrefundable fee.

b. The department will review the application and respond to the applicant within ten business days after receipt.

c. A continuing education course will address cross connection control theory and practice; backflow prevention devices and methods; backflow prevention assembly installation, testing, troubleshooting and repair; codes and rules affecting cross connection control; safety issues related to installation and testing of backflow prevention assemblies; or related subjects approved by the department.

26.4(3) Third-party certification agencies.

a. Third-party certification agencies seeking approval in Iowa shall submit a written request to the department, on agency letterhead and signed by an authorized representative of the agency, that includes at least the following:

(1) Agency name and website, contact person, mailing address, email address, and telephone number.

(2) A description of the written examination, whether it is open- or closed-book, and information about the arrangements for administration of the examination.

(3) A copy of the testing procedures that are the basis for the practical examination.

(4) A description of the procedures for the practical examination and the criteria for evaluating performance.

(5) Proctor qualifications and training.

(6) Procedures and criteria for renewing the certification. The renewal of certification will be completed at least every five years and include knowledge and skills testing.

(7) A history of the development and implementation of the program, as applicable.

(8) A list of other jurisdictions where the certification is allowed and regulatory contacts in those jurisdictions.

(9) A nonrefundable fee of \$200.

b. A third-party certification agency will not certify an individual who was trained by the agency. An individual proctor will not certify individuals who have taken a course at which the proctor was an instructor.

c. A third-party certification agency shall submit to the department any changes to the information set forth in paragraph 26.4(3) “a” every five years, no later than 30 days before the end of the fifth year.

641—26.5(135K) Registration.

26.5(1) Initial registration.

a. A person who has successfully completed an approved training course may register with the department within one year of course completion. A person who is certified may register with the department. The applicant must submit:

- (1) A completed application form provided by the department.
- (2) Documentation of successful completion of an approved training course or certification.
- (3) A nonrefundable fee of \$72.

The registration expires two years after it is issued.

b. A person who has completed a course of training in another state may be registered in Iowa. The person will submit:

- (1) A completed Iowa application form provided by the department.
- (2) Documentation that:

1. The person has successfully completed a training course meeting the hour and subject requirements for an approved training course (if the person completed the training course more than 12 months before the date of the application, provide documentation that the person has attended an average of at least 2.5 hours of continuing education training per year since completing the course), or

2. The person is certified, or

3. The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than Iowa.

- (3) A nonrefundable fee of \$72.

26.5(2) Renewal registration.

a. Registered testers may renew 60 days prior to registration expiration and include:

- (1) A completed registration renewal application form provided by the department.

(2) Documentation that the registered tester has completed at least five hours of approved continuing education courses during the registration period or documentation that the registered tester is certified.

- (3) A nonrefundable fee of \$72.

(4) Registration renewal applications received after expiration will incur a \$10 penalty per month, to a maximum \$50 penalty.

b. If a registration has lapsed greater than 24 months, the person applying for renewal shall demonstrate that one of the following is true:

(1) The person has successfully completed an approved training course within the 12 months before applying for registration renewal, or

(2) The person is certified, or

(3) The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than does the state of Iowa.

641—26.6(135K) Standards of conduct.

26.6(1) A registered tester shall comply with these rules and any ordinances, rules and policies of the administrative authority in jurisdictions where the registered tester tests or repairs a backflow prevention assembly.

26.6(2) A registered tester shall maintain a record for each backflow prevention assembly tested for at least five years after the date on which the assembly was tested. Registered testers will complete an administrative authority's test report form if required by ordinance. Records may be reviewed during normal business hours by an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located. The assembly record will include at least:

a. The name, address and telephone number of the assembly owner.

b. The location of the facility in which the assembly is located.

c. The location of the assembly within the facility.

d. The type, brand, model, size, and serial number of the assembly.

- e. The date and time of the test.
- f. Results of the test.
- g. Any assembly repairs or maintenance.

26.6(3) To field test a backflow prevention assembly, a registered tester shall use a differential pressure gauge, the accuracy of which is verified no less than every 13 months with results traceable to the National Institute of Standards and Technology (NIST). Any differential pressure gauge with an error of more than plus or minus 0.2 psi cannot be used to test a backflow prevention assembly. Methods of testing that use other types of equipment, including dual pressure gauges, water columns, or single pressure gauges, are not acceptable. For every test report record retained in accordance with subrule 26.6(2), the prior most recent accuracy verification for the differential pressure gauge shall be retained and made available to an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located.

641—26.7(135K) Penalty. In addition to other sanctions provided herein, a person who violates a provision of this chapter is guilty of a simple misdemeanor pursuant to Iowa Code section 135K.5.

641—26.8(135K) Denial, probation, suspension or revocation.

26.8(1) Denial, probation, suspension or revocation of registration. The department may deny an application for registration or renewal, place a registration on probation, suspend or revoke a registration, or order a registered tester not to test or repair backflow prevention assemblies when the department finds that the applicant or registered tester has committed any of the following acts:

a. Negligence or incompetence in the testing of a backflow prevention assembly, including failure to report improper application or installation of a backflow prevention assembly to the facility owner and the administrative authority.

b. Knowingly submitting a false report of a test of a backflow prevention assembly to the owner of the facility, the local administrative authority, or the department.

c. Fraud in obtaining registration or renewal including, but not limited to:

- (1) Intentionally submitting false information on an application for registration or renewal;
- (2) Submitting a false or forged certificate or other record of training or certification.

d. Falsification of the assembly records set forth in subrule 26.6(2).

e. Failure to comply with these rules or the ordinances of an administrative authority in whose jurisdiction the registered tester tests a backflow prevention assembly.

f. Failure to pay registration, renewal or late fees.

g. Habitual intoxication or addiction to drugs.

h. Violating a statute of this state or another jurisdiction relating to backflow prevention assembly testing, including but not limited to crimes involving dishonesty, fraud, theft, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

i. Suspension, revocation, or other disciplinary action pertaining to backflow prevention assembly testing in another jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive evidence.

j. Knowingly making misleading, deceptive, untrue, or fraudulent representations regarding the testing of backflow prevention assemblies, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts which may constitute unethical conduct include:

(1) Verbally or physically abusing a client or coworker.

(2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a client or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature

k. Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.

l. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

m. Knowingly aiding, assisting or advising a person to unlawfully practice as a backflow prevention assembly tester.

n. Representing oneself as a registered backflow prevention assembly tester when one's registration has been suspended, revoked, lapsed, or placed on inactive status.

o. Acceptance of any fee by fraud or misrepresentation.

p. Failure to appropriately respond to written communication from the department sent by registered or certified mail.

26.8(2) Denial or revocation of training course approval. The department may deny or revoke the approval for a training course or a continuing education course when it finds:

a. The lead instructor for a training course is not qualified in accordance with paragraph 26.4(1) "f."

b. The training course did not comply with paragraph 26.4(1) "e."

c. That the training course testing laboratory did not comply with paragraph 26.4(1) "g."

d. The organization or person applying for approval of a training or continuing education course intentionally submitted false information to the department in support of such approval.

e. The organization or person conducting or sponsoring training has falsified training or continuing education records, including issuance of a certificate or other record of training to a person who did not successfully complete a training course or who did not attend continuing education training.

f. The organization or person responsible for a training or continuing education course has permitted physical or verbal abuse or sexual harassment of a student or instructor. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

g. The organization or person responsible for training courses and continuing education courses consistently fails to notify the department of such courses in a timely fashion as set forth in 26.4(1) "d" and 26.4(2) "a," or fails to pay its fees.

h. Failure to comply with these rules.

26.8(3) Denial or revocation of approval as a third-party certification agency. The department may deny or revoke the approval for a third-party certification agency when it finds:

a. The application for approval contains material misinformation regarding the conduct and standards of the certification program or its acceptance in other jurisdictions.

b. Failure to adhere to the standards and procedures stated in the application for approval in the process of certifying or renewing the certification of testers.

c. Violations of paragraph 26.4(3) "b" or other failure to comply with these rules.

26.8(4) Complaints. Complaints regarding a registered tester, an approved training course, or a third-party certification agency may be sent to the department. The complainant should provide as much pertinent and specific information as to a potential violation as they are able to.

26.8(5) Appeals. Notice of denial, probation, suspension or revocation of registration; denial, probation or revocation of course approval; or denial, probation or revocation of third-party certification agency approval will be sent to the affected individual or organization by certified mail, return receipt requested, or by personal service. The affected individual or organization may appeal the denial, probation, suspension or revocation by requesting a contested case hearing within 20 days of receipt of the department's order. The notice of denial, probation, suspension or revocation is deemed to be suspended during the appeal. Prior to or at the contested case hearing, the department may rescind the notice upon satisfaction that the reason for the denial, probation, suspension or revocation has been or will be removed. 481—Chapters 9 and 10 are applicable to contested case appeals.

These rules are intended to implement Iowa Code chapter 135K.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1509
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	69

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	8/24/23	Total Rule Count:	6
IAC #:	641	Chapter/ Subchapter / Rule(s):	27	Iowa Code Section Authorizing Rule:	105
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641-27.1 Definitions. The intent benefit is to understand the terms used in this chapter.

641—27.2(17A,105) Purpose of board. The intended benefit of this rule is to explain the purpose of the board, its mission, and its responsibilities.

641—27.3(17A,105) Organization of board and proceedings. The intended benefit of this rule is to explain the how the plumbing and mechanical systems board is organized, how it conducts its business, and its authority.

641—27.4(17A,105) Official communications. The intended benefit of this rule is to provide board’s address and to explain when licensees and licensed entities must notify the board of a change of address or change of name.

641—27.5(17A,105) Office hours. The intended benefit of this rule is to notify the public of the board’s business hours.

641—27.6(21) Public meetings. The intended benefit of this rule is to establish rules that will govern the board’s public meetings.

Is the benefit being achieved? Please provide evidence.

641-27.1 Definitions. Yes, the benefit is being achieved.

641—27.2(17A,105) Purpose of board. Yes, the benefit is being achieved.

641—27.3(17A,105) Organization of board and proceedings. Yes, the benefit is being achieved.

641—27.4(17A,105) Official communications. Yes, the benefit is being achieved.

641—27.5(17A,105) Office hours. It is proposed that this rule be repealed as there is no benefit to this rule

and the public can easily find the board's office hours on its website.

641—27.6(21) Public meetings. Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

641-27.1 Definitions. No public costs are incurred.

641—27.2(17A,105) Purpose of board. No public costs are incurred.

641—27.3(17A,105) Organization of board and proceedings. No public costs are incurred.

641—27.4(17A,105) Official communications. Any costs incurred are de minimis administrative costs associated with licensees providing the board notifications of changes of information.

641—27.5(17A,105) Office hours. No public costs are incurred.

641—27.6(21) Public meetings. No public costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

641-27.1 Definitions. No costs are incurred.

641—27.2(17A,105) Purpose of board. No costs are incurred.

641—27.3(17A,105) Organization of board and proceedings. No specific financial costs needed to implement/enforce the rule outside of the board's general operating budget

641—27.4(17A,105) Official communications. No costs are incurred.

641—27.5(17A,105) Office hours. No costs are incurred.

641—27.6(21) Public meetings. No specific financial costs needed to implement/enforce the rule outside of the board's general operating budget

Do the costs justify the benefits achieved? Please explain.

The rules of this chapter generally provide administrative information for licensees and the public and do not subject the board or public to costs beyond those associated with the Code chapters being implemented, Iowa Code chapters 17A, 21, and 105.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This chapter is not restrictive in nature as it sets forth the administrative authority of the board and describes its purpose and operations.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, all rules within chapter 27 have a component that falls under one or more of the above referenced categories and are able to be revised to remove language that is unnecessary or duplicative of other state law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641-27.5

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 27

PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

641—27.1(17A,105) Definitions. The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of this chapter, the following definitions also apply:

“Board office” means the office of the administrative staff.

“Disciplinary proceeding” means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“License” means a license to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“Licensee” means a person or entity licensed to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

641—27.2(17A,105) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A and 105 with regard to the licensing and regulation of plumbers, mechanical professionals, and contractors. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and regulations of the licensure board. Responsibilities include, but are not limited to:

27.2(1) Licensing of qualified applicants to operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board by examination, renewal, endorsement, and reciprocity.

27.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

27.2(3) Imposing discipline on licensees as provided by statute or rule.

641—27.3(17A,105) Organization of board and proceedings.

27.3(1) Membership of the board is as provided in Iowa Code section 105.3.

27.3(2) The board will elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

27.3(3) The board will hold at least four meetings annually.

27.3(4) A majority of the members of the board shall constitute a quorum.

27.3(5) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board’s proceedings will be

conducted in accordance with Robert’s Rules of Order, Revised.

27.3(6) The department will furnish the board with the necessary facilities and employees to perform the duties mandated by this chapter but shall be reimbursed for all costs incurred from funds appropriated to the board and subsequent fees from licensing activities.

27.3(7) The board has the authority to:

- a. Develop and implement a program of continuing education to ensure the continued competency of individuals licensed by the board.
- b. Establish fees.
- c. Establish committees of the board, the members of which are appointed by the board chairperson and do not constitute a quorum of the board. The board chairperson appoints committee chairpersons.
- d. Hold a closed session pursuant to Iowa Code section 21.5.
- e. Investigate alleged violations of statutes or rules that relate to operation as a contractor; work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines; work as a certified medical gas system installer; or work in the specialty license disciplines developed by the board upon receipt of a complaint or upon the board’s own initiation. The investigation will be based on information or evidence received by the board.
- f. Initiate and impose licensee discipline.
- g. Monitor licensees that are limited by a board order.
- h. Perform any other functions authorized by a provision of law.

641—27.4(17A,105) Official communications.

27.4(1) All official communications, including submissions and requests, should be addressed to the Plumbing and Mechanical Systems Board at its current address.

27.4(2) Notice of change of name or address. Each licensee and licensed entity shall notify the board in writing of a change of name or change of current mailing address within 30 days after the occurrence.

641—27.5(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained through the board’s website or directly from the board office.

27.5(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Any additional time allowances will be at the discretion of the chairperson or acting chairperson.

27.5(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

27.5(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

27.5(4) Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, and 105.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	351
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	17

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 23, 2023	Total Rule Count:	3
IAC #:	641	Chapter/ SubChapter/ Rule(s):	28	Iowa Code Section Authorizing Rule:	105.4
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—28.1(105) Fees. The intended benefit of this rule is to establish a fee schedule for licensees. Although regulatory systems, including types of licenses and length of renewal cycles, vary from state to state and thus make an apples-to-apples comparison challenging, a review of similar licenses from neighboring states demonstrates that Iowa’s fees are generally comparable to and lower than neighboring states. As set forth in rule 28.1, Iowa’s three year initial license fee (prorated using a 1/6 deduction for each six month period) ranges from \$50 to \$250 depending on the type of license. The following are examples from neighboring states of fees for licenses similar to those in Iowa:

- South Dakota – Plumbing contractor license \$275 per year
Journey plumbing license \$105 per year
- Minnesota – Plumbing contractor license \$128 per 2 years
Master plumbing license \$73 per 2 year
Journey plumbing license \$43 per 2 years
- Wisconsin – Journey plumbing license \$190 per 4 years
Master plumbing license \$520 per 4 years
Apprentice license \$30 per year
- Illinois – Plumbing contractor license \$150 per year
Individual plumbing license \$100 per year
Apprentice \$100 per year

Nebraska and Missouri do not have statewide licenses for plumbing and mechanical professionals.

Not only are the fees set forth in 28.1 appropriate as compared to similar programs in neighboring states, but the fees are not in excess of the costs of administering the program and are thus appropriate for repromulgation. As required by Iowa Code section 105.9(5)(a), incorporated within Rule 28.2, the board submits a report to the general assembly within sixty days following the end of each fiscal year that includes a balance sheet projection extending no less than three years. If the revenue projection exceeds expense projections by more than ten percent, the board adjusts their fee schedules accordingly, so that projected

revenues are no more than ten percent higher than projected expenses. Notably, certain fees are also subject to waiver as set forth in Rule 641-28.3.

641—28.2(105) Annual review of fee schedule. The intended benefit of this rule is to explain the board’s duty to submit an annual report to the General Assembly in accordance with Iowa Code section 105.9(5)(a).

641—28.3(105) Waiver of fees. The intended benefit of this rule is to explain the circumstances under which fee waivers are available. In particular, this rule waives fees for applicants whose household incomes do not exceed 200 percent of the federal poverty income guidelines and are applying for the license for the first time in this state, and for applicants who have been honorably or generally discharged from federal active duty or national guard duty within five years of discharge.

Is the benefit being achieved? Please provide evidence.

641—28.1(105) Fees. Yes, the benefit is being achieved. All fees are clearly set forth therein and the fees are appropriate to administration of Iowa Code chapter 105 as set forth above.

641—28.2(105) Annual review of fee schedule. Yes, the benefit is being achieved.

641—28.3(105) Waiver of fees. Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

641—28.1(105) Fees. Licensees must pay the fees as required by the rule, depending on the applicable license(s) the individual maintains.

641—28.2(105) Annual review of fee schedule. No costs are incurred by the public to comply with the rule.

641—28.3(105) Waiver of fees. The only individuals who incur costs to comply with this rule are licensees who have determined that any minimal administrative costs associated with seeking a waiver of the applicable license fee are outweighed by the benefit of having the fee waived.

What are the costs to the agency or any other agency to implement/enforce the rule?

641—28.1(105) Fees. There are no specific financial costs to implement/enforce the rule outside of any costs associated with the board’s statutory duties pursuant to Iowa Code chapter 105.

641—28.2(105) Annual review of fee schedule. There are no specific financial costs to implement/enforce the rule outside of any costs associated with the board’s statutory duties pursuant to Iowa Code chapter 105.

641—28.3(105) Waiver of fees. Any financial costs associated with reviewing and responding to fee waivers are minimal and generally associated with the board’s statutory duties pursuant to Iowa Code chapter 105.

Do the costs justify the benefits achieved? Please explain.

641—28.1(105) Fees. Yes. As set forth above, the costs associated with administering Iowa Code chapter

105 emanate from the duties set forth therein, and the fees set forth in Rule 28.1 are appropriate to administration of Iowa Code chapter 105 as set forth above.

641—28.2(105) Annual review of fee schedule. N/A

641—28.3(105) Waiver of fees. Yes, the minimal costs of processing waivers are appropriate given the classes of individuals subject to waiver and the benefits to those identified classes.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

641—28.1(105) Fees. No, the board's duties are mandated by state law and are appropriately reviewed by the general assembly annually.

641—28.2(105) Annual review of fee schedule. No, the board's duties are mandated by state law.

641—28.3(105) Waiver of fees. No, this rule merely sets forth the classes of individuals to whom a waiver of applicable fees is available and does not restrict the manner in which any individual establishes their eligibility for the waiver.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule in this chapter was subject to editing for language in the above categories.

641—28.1Subrule (5) contains language that is obsolete and subrule (6) is obsolete in totality as licenses are now emailed.

641—28.2(105) Annual review of fee schedule. This rule contains language that is duplicative of statutory language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 28
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

641—28.1(105) Fees. All fees are nonrefundable.

28.1(1) Fees for three-year initial licenses are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is \$180.
- c. A master license as defined in 641—subrule 29.2(3) is \$240.
- d. A medical gas pipe certificate as defined in 641—29.3(105) is \$75.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.

- f.* A contractor license as defined in 641—subrule 29.2(4) is \$250.
- g.* A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10) is \$50.
- h.* Fees for all initial licenses issued for a period of less than three years will be prorated using a one-sixth deduction for each six-month period.

28.1(2) Fees for three-year reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 are as follows:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$180.
- c.* A master license as defined in 641—subrule 29.2(3) is \$240.
- d.* Fees for all reciprocal licenses or three-year licenses obtained by verification in accordance with 641—Chapter 35 issued for a period of less than three years will be prorated using a one-sixth deduction for each six-month period.

28.1(3) Fees for renewal of licenses are as follows:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$180.
- c.* A master license as defined in 641—subrule 29.2(3) is \$240.
- d.* A medical gas pipe certificate as defined in 641—29.3(105) is \$75.
- e.* An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50. However, no fee is necessary for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.
- f.* A contractor license as defined in 641—subrule 29.2(4) is \$250.
- g.* A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10) is \$50. However, no fee is necessary for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

28.1(4) The examination application fee is \$35.

28.1(5) A late fee for failure to renew before expiration is determined as follows:

- a.* A licensee who does not timely renew but renews a license on or before the following July 31 may reinstate and renew the license upon payment of the appropriate renewal fee and without payment of a late fee.
- b.* A licensee who does not timely renew but renews a license between the following August 1 and August 31 may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee.
- c.* A licensee who does not timely renew but renews a license after the following August 31 and on or before the following June 30 may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee.

28.1(7) The fee for written verification of licensee status is \$20.

28.1(8) The returned check fee is \$25.

28.1(9) The disciplinary hearing fee is a maximum of \$75.

28.1(10) The paper application fee is \$25 plus the appropriate license fee.

28.1(11) Combined license.

- a.* For purposes of this subrule, “combined license” means more than one active master, contractor, or journey person license in one or multiple disciplines held by the same individual.
- b.* A license fee for a combined license is the sum total of each of the separate license fees as set forth in subrules 28.1(1) through 28.1(3) reduced by 30 percent.
- c.* Only individual licenses purchased in a single transaction are eligible for the combined licensee fee reduction.

28.1(12) The fee for combining an HVAC-refrigeration or hydronics license to a mechanical license is \$50. This fee does not apply at the time of reissue.

28.1(13) The fee for submitting a petition for eligibility determination as defined in 641—subrule 29.13(2) is \$25.

641—28.2(105) Annual review of fee schedule. Within 60 days following the end of each fiscal year, the board will submit a report to the general assembly in accordance with Iowa Code section 105.9(5)(a)

641—28.3(105) Waiver of fees. Fee waivers are available under the following circumstances:

- a.* The board will waive any fee charged to an applicant for a license if the applicant’s household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.
- b.* For an applicant who has been honorably or generally discharged from federal active duty or national guard duty, the board will waive an initial application fee and one renewal fee if those fees would otherwise be charged within five years of

the discharge.

These rules are intended to implement Iowa Code sections 105.9 and 272C.15

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	218
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	13

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 30, 2023	Total Rule Count:	13
IAC #:	641	Chapter/ SubChapter/ Rule(s):	29	Iowa Code Section Authorizing Rule:	105, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

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What is the intended benefit of the rule?

These rules implement the requirements set forth in Iowa Code sections 105.5, 105.9, 105.18, 105.19, 105.20 and 105.22. The intended benefit of this chapter is to establish license types that are available, establish the general requirements and minimum qualifications for the licenses, and establish how to obtain the licenses. This chapter establishes the general and minimum qualification for individuals who need to pass and examination in order to obtain a license, and when licenses must be renewed and how licensees renew, reinstate, or reactivate their licenses. It also establishes when certain provisions can be waived due to specific military service. This chapter establishes when an application for licensure may be denied and an optional process for determining eligibility prior to a license application.

641—29.1(105) Definitions. The intended benefit of this rule is to define terms used in this chapter.

641—29.2(105) Available licenses and general requirements. The intended benefit of this rule is to explain the types of licenses issued by the board and general requirements for each.

641—29.3(105) Medical gas piping certification. The intended benefit of this rule is to explain the certification requirements for someone who performs work as a medical gas system installer.

641—29.4(105) Minimum qualifications for licensure. The intended benefit of this rule is to explain the minimum requirements applicable to all applicants for licensure by the board.

641—29.5(105) General requirements for application for licensure. The intended benefit of this rule is to explain the general requirements for those applying for licensure by the board.

641—29.6(105) Examination. The intended benefit of this rule is to explain the requirements for licensing examinations, which are required in order to be licensed by the board.

641—29.7(105) License renewal. The intended benefit of this rule is to explain the renewal period and the requirements for license renewal. The rule includes provisions for late renewal and reinstatement of a

lapsed license.

641—29.8(105) License reissue. The intended benefit of this rule is to explain the reissuance of licenses at renewal.

641—29.9(105) Waiver from examination for military service. The intended benefit of this rule is to explain the circumstances under which written examination and prior experience requirements will be waived for applicants who meet specific criteria related to military service.

641—29.10(105) Reactivation of an inactive license. The intended benefit of this rule is to explain the process required to activate an inactive license that is not lapsed.

641—29.11(105) Review of applications. The intended benefit of this rule is to explain the board's process for review and consideration of license applications.

641—29.12(105) Grounds for denial of an application. The intended benefit of this rule is to explain the reasons why the board may deny an application for license, certification, or examination.

641—29.13(105) Use of criminal convictions in eligibility determinations and initial licensing decisions. The intended benefit of this rule is to explain the required disclosure of criminal convictions by applicants, requests for eligibility determinations prior to submitting a licensure application, and the process for appealing a determination by the board of ineligibility because of a disqualifying offense.

Is the benefit being achieved? Please provide evidence.

Overall, the benefits of this chapter are being achieved. As a general matter, licensees and the industry know what license are available and what the qualifications are for these licenses.

641—29.1(105) Definitions. Yes, the benefit is being achieved.

641—29.2(105) Available licenses and general requirements. Yes, the benefit is being achieved.

641—29.3(105) Medical gas piping certification. Yes, the benefit is being achieved.

641—29.4(105) Minimum qualifications for licensure. Yes, the benefit is being achieved.

641—29.5(105) General requirements for application for licensure. Yes, the benefit is being achieved.

641—29.6(105) Examination. Yes, the benefit is being achieved.

641—29.7(105) License renewal. Yes, the benefit is being achieved.

641—29.8(105) License reissue. This rule has been identified as one that can be repealed as obsolete.

641—29.9(105) Waiver from examination for military service. Yes, the benefit is being achieved.

641—29.10(105) Reactivation of an inactive license. Yes, the benefit is being achieved.

641—29.11(105) Review of applications. Yes, the benefit is being achieved.

641—29.12(105) Grounds for denial of an application. Yes, the benefit is being achieved.

641—29.13(105) Use of criminal convictions in eligibility determinations and initial licensing decisions. Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public to comply with these rules. Any costs associated with this chapter are incurred by the licensees in the course of obtaining and maintaining their licenses. The board has a memorandum of understanding with Kirkwood Community College to administer the examinations required to obtain a license. The cost for an examination through Kirkwood is \$119 per exam. The cost to maintain the credentials through the National Inspection Testing Certification (NITC) Corporation for the medical gas piping is \$150/3 years. The cost of the application to determine whether an individual is eligible for license is \$25.

What are the costs to the agency or any other agency to implement/enforce the rule?

The board has office staff to process applications. There are also costs for the database that houses all of the information needed for licensure. There are no specific financial costs to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 105.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefit of having everyone in the industry know what licenses are available and what the requirements are. The rules themselves add very little cost beyond any costs substantively incurred due to the requirements of Iowa Code chapter 105. Furthermore, the cost of training, examinations, and licensing are relatively small when compared to the benefit of having a properly trained workforce in this industry. When using properly licensed businesses and individuals the public can have confidence that this important work is done safely and correctly. There are bonding and insurance requirements in cases where work is not done properly, the costs of which are statutorily required to be borne by the licensees. In the rare cases when a license is denied, the board is complying with its duty to protect the public. The circumstances of denial decisions issued in recent years exemplify the board's fulfillment of that duty.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Prior to statewide licensing in 2010 local jurisdictions had their own licensing requirements or none at all. There was no uniformity and businesses and individuals often had to have multiple licenses for multiple jurisdictions. There is now uniformity for licensing and the entire industry is following the same rules due to the requirements of Iowa Code chapter 105 and rules discussed herein that clarify and implement it. The rules discussed herein are already the least restrictive implementation of Chapter 105.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes, all rules within chapter 29 have a component that falls under one or more of the above referenced categories and were able to be revised to remove language that was unnecessary or duplicative of other state law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—29.8(105) License reissue. Repealed obsolete.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 29
PLUMBING AND MECHANICAL SYSTEMS BOARD—
APPLICATION, LICENSURE, AND EXAMINATION

641—29.1(105) Definitions. The definitions set forth in Iowa Code section 105.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

“*Complete criminal record*” means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Corresponding*” means the same discipline.

“*Directly relates*” or “*directly related*” means the same as Iowa Code section 272C.1(8)(a)–(b).

“*Disconnect/reconnect plumbing technician specialty license*” means a sublicense under a plumbing license to perform work from the appliance shutoff valve or fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than 3 feet from the appliance or fixture.

“*Disqualifying conviction*” or “*disqualifying offense*” means a conviction directly related to the practice of the profession.

“*Eligibility determination*” means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person’s convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

“*Emergency repairs*” means the repair of water pipes to prevent imminent damage to property.

“*Hearth systems specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within 3 feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date or a license that expired on or after June 30, 2017, and was not renewed by the following August 31. A lapsed license is no longer valid for practice.

“*Licensee*” means any person licensed to practice pursuant to Iowa Code chapter 105.

“*Reactivated license*” means a license that is changed from inactive status to active status pursuant to rule 641—29.8(105).

“*Reissued license*” means a refrigeration or HVAC license that was changed to an HVAC-refrigeration license pursuant to rule 641—29.8(105). “Reissued license” also means an HVAC or refrigeration license and a hydronic license that was changed to a mechanical license pursuant to rule 641—29.8(105).

“*Service technician HVAC specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than 3 feet away from the appliance.

“*Surety bond*” means a performance bond written by an entity licensed to do business in this state which guarantees that a contractor will fully perform the contract and which guarantees against breach of that contract.

641—29.2(105) Available licenses and general requirements. All licenses issued by the board will be for a three-year period, except where a shorter or longer period is required or allowed by statute. Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

29.2(1) *Apprentice license.* An applicant for an apprentice license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code 105.18. If the applicant currently holds an active specialty license, place the specialty license on inactive status as specified in 641—subrule 23.8(3).

29.2(2) *Journeyman license.* An applicant for a journeyman license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code 105.18, including an applicant who possesses a master level license and who seeks a journeyman license in the same discipline.

29.2(3) *Master license.* An applicant for a master license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code 105.18. Applicants previously licensed as a journeyman will provide evidence of at least two years of journeyman experience in the applicable discipline.

29.2(4) *Contractor license.* An applicant for a contractor license will submit an application that provides evidence of meeting the qualifications specified in Iowa Code 105.18, and the insurance and surety bond requirements specified in 105.19.

29.2(5) *Active journeyman license/inactive master license combination.* An applicant for an active journeyman license and an inactive master license in the same discipline will submit an application approved by the Department, and pay the fees for both an active journeyman license and an inactive master license in accordance with subrule 29.2(3) and rule 29.5.

29.2(6) *Inactive license.* An applicant for an inactive license that does not fall within subrule 29.2(5) will submit an application approved by the Department and pay the fee for an inactive license in accordance with rule 29.5.

29.2(7) *Service technician HVAC specialty license.* An applicant for a service technician HVAC specialty license will submit an application approved by the Department and pay the fee for a specialty license in accordance with rule 29.5. It will also provide the board with evidence that:

a. The applicant possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board, or

b. The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(8) *Disconnect/reconnect plumbing technician specialty license.* An applicant for a disconnect/reconnect plumbing technician specialty license will submit an application approved by the Department and pay the fee for a specialty license in accordance with rule 29.5. It will also provide the board with evidence that:

a. The applicant is receiving or has previously received industry training to perform work covered under this specialty license, or

b. The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(9) *Private school or college routine maintenance specialty license.* An applicant for a private school or college routine maintenance specialty license will submit an application approved by the Department and pay the fee for a specialty license in accordance with rule 29.5 and:

a. Provide the board with evidence that the applicant is currently employed by a private school or college.

b. Provide the board with evidence that the applicant is performing routine maintenance within the scope of employment with the private school or college.

29.2(10) *Hearth systems specialty license.* An applicant for a hearth systems specialty license will submit an application approved by the Department and pay the fee for a specialty license in accordance with rule 29.5 and provide the board with evidence that the applicant possesses a valid certification issued by the National Fireplace Institute or equivalent authority approved by the board.

641—29.3(105) Medical gas piping certification. The following certification is required for a person who performs work as a medical gas system installer. An applicant for a medical gas certificate will submit an application approved by the Department and pay the fee for a medical gas piping certification in accordance with rule 29.5 and possess valid certification from the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board. Documentation must be submitted on a form provided by the board.

641—29.4(105) Minimum qualifications for licensure. An applicant for any type of license must be at least 18 years old. All apprentice applicants must have completed a high school education or attained GED equivalent.

641—29.5(105) General requirements for application for licensure. The following criteria apply to application for licensure.

29.5(1) Application. An applicant will complete an application online or on a paper application approved by the board.

29.5(2) Fees. An application must be accompanied by the appropriate fees. All fees are nonrefundable. Fees for online applications are by credit card only. A check or money order may accompany a paper application.

29.5(3) Applicant responsibilities. An applicant for an initial license or license renewal bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, state or national testing or credentialing organizations, and educational institutions providing the information necessary to complete a license, certification, or renewal application;

b. Providing accurate, up-to-date, and truthful information on the application including, but not limited to, prior professional experience, education, training, criminal history, and disciplinary history; and

c. Submitting complete application materials. An application for a license or certification or renewal of a license or certification will be considered active for 90 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal or the date of the electronic time stamp for online renewals will be used. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license or certification, the application will be considered incomplete and will be destroyed.

29.5(4) Verifiable documentation. No application will be considered by the board without the appropriate verifiable documentation, including:

a. A passing score for a discipline-appropriate examination provided by the testing vendor under contract with the board, when testing is required for a license.

b. Verification that the applicant has met the minimum requirements as defined in 641—29.4(105) and the established employment experience criteria for each type of license.

c. Documentation of the applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession. No application will be considered complete unless and until the applicant responds to board requests for additional information regarding the applicant's complete criminal record.

641—29.6(105) Examination.

29.6(1) General. An applicant for licensure as a plumbing or mechanical system professional must successfully pass the licensing examination for the discipline. The examination will be specific to each license type, approved by the board, and administered by the board-approved vendor.

29.6(2) Examination.

a. The examination will be written and proctored by a testing agency selected by the board.

b. The examination will be offered periodically during the year. The time and location will rotate between multiple sites in the state of Iowa, as determined by the department, with approval of the board.

c. The examination will not be subject to review by applicants. Upon request from an application, the testing vendor will provide information about the sections that the applicant failed, but shall not provide an applicant access to actual examination questions or answers. Any fees associated with the review process will be assessed by and payable to the testing vendor. The applicant is responsible for paying all associated examination fees.

d. A score of 75 percent or better is considered passing.

29.6(3) Examination application.

a. An applicant will complete and submit a board-approved examination application either on-line or on a paper application a minimum of 15 business days prior to taking an examination.

b. An application must be accompanied by the appropriate fees. All fees are nonrefundable. Fees for online applications are by credit card only. A check or money order may accompany a paper application.

c. No application will be considered by the board without the appropriate verifiable documentation.

d. The applicant will be notified and issued an examination entrance letter upon approval of the examination application.

e. If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. Incomplete applications will be considered invalid and after 90 days will be destroyed.

f. Examination fees are payable directly to the board-approved testing vendor. All transactions are the responsibility of the applicant and testing vendor. The board is not responsible for refunds from the testing vendor.

g. An applicant shall present current photo identification in order to sit for the examination.

h. An applicant for licensure by examination who does not pass the examination within one year from the original application date has to submit a new application.

i. A master examination applicant will not receive permission to sit for a master examination unless the applicant

establishes that the applicant:

- (1) Has previously been licensed as a master in the applicable discipline; or
- (2) Has previously been licensed as a journeyperson in the applicable discipline and has at least two years of journeyperson experience in the applicable discipline.

j. A journeyperson examination applicant may apply to sit for the examination up to 12 months prior to completion of the 48 months of required apprentice credit, which include the granting of advanced standing or credit for previously acquired experience, training, or skills.

29.6(4) Expiration of passing examination score. An applicant who successfully passes an examination must apply for licensure in the applicable discipline at the applicable discipline level within two years of notification that the applicant successfully passed the examination. A passing examination score expires if the applicant fails to apply for licensure within the two-year period as set forth herein, and the applicant will be required to successfully retake said examination to become licensed.

641—29.7(105) License renewal.

29.7(1) *Renewal period.* The period of licensure to operate as a contractor or work as a master, journeyperson or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board is a period of three years. All licenses issued will expire on June 30 every three years, beginning with June 30, 2026. Fees for new licenses issued after the July 1 beginning of each three-year renewal cycle will be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

29.7(2) *Renewal notification.* The licensee is responsible for renewing the license prior to its expiration.

29.7(3) *Specific renewal requirements.*

a. Active and inactive apprentice, specialty, journeyperson, and master licenses. An apprentice, specialty, journeyperson, or master licensee seeking renewal shall:

- (1) Submit an application for renewal online or on the forms provided by the board office.
- (2) Meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is necessary as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).
- (3) Include the appropriate fee as specified in 641—Chapter 28. A penalty will be assessed by the board for late renewal, as specified in 641—Chapter 28.

b. Medical gas piping certification holders. A medical gas piping certification holder seeking renewal shall:

- (1) Submit an application for renewal either electronically or on the forms provided by the board office.
- (2) Provide evidence that the person has maintained valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.
- (3) Include the appropriate fee as specified in 641—Chapter 28.

c. Contractor licenses. Renewal of the contractor license constitutes registration as a contractor under Iowa Code chapter 91C. A contractor licensee seeking renewal shall:

- (1) Submit an application for renewal on the forms provided by the board office. Licensees may renew their licenses online or via paper application.
- (2) Include evidence of professional liability insurance and a surety bond mandated by subrule 29.2(4).
- (3) As specified in 875—Chapter 150, include proof of workers' compensation insurance coverage, proof of unemployment insurance compliance and, for out-of-state contractors, a bond as described in Iowa Code chapter 91C.
- (4) Include the appropriate license fee as specified in 641—Chapter 28. A penalty will be assessed by the board for late renewal, as specified in 641—Chapter 28.
- (5) Include the fee for a three-year contractor registration as specified in 875—Chapter 150.

29.7(4) *Complete and timely filed application.* Renewal applications are due 30 days prior to expiration per Iowa Code section 105.20(2). No renewal application is considered timely and sufficient until received by the board office and accompanied by all material necessary for renewal, including applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal or the date of the electronic time stamp for online renewals will be used.

29.7(5) *Late renewal.* A licensee has a one-month grace period after the expiration date of the license to renew without payment of a late fee.

a. A licensee who seeks to renew more than one month but less than two months after the license expiration date may renew upon payment of the late fee in the amount specified in 641—Chapter 28 in addition to the renewal fee.

b. A license remains valid for practice for up to two months past the expiration date of the license. After two months, the license lapses and become invalid for practice until the license is reinstated.

29.7(6) *Reinstatement.* A person seeking reinstatement of a lapsed license must submit an application for reinstatement

electronically or on the forms provided by the board office and include all mandated documentation and fees.

a. A licensee who allows a license to lapse for more than two months but not more than 365 days may reinstate and renew the license upon payment of the late penalty fee in the amount specified in 641—Chapter 28 in addition to the renewal fee. A specialty, journey person or master licensee must also meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is mandated as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).

b. A person holding a specialty, journey person or master license who allows the license to lapse for more than one year may reinstate and renew the license by providing evidence of one of the following:

- (1) For a journey person or master licensee, retaking and successfully passing the applicable licensing examination; or
- (2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) for each renewal period in which the license was not timely renewed.

c. A contractor licensee seeking reinstatement of a license that has been lapsed for more than one year may reinstate and renew the license by submitting evidence of meeting the requirements specified in subrule 29.7(3) and payment of any mandated fees.

d. A licensee who reinstates and renews a lapsed license is not entitled to a prorated renewal fee.

641—29.8(105) Waiver from examination for military service. The written examination requirements and prior experience requirements set forth in Iowa Code sections 105.18(2) “*b*”(1) and 105.18(2) “*c*” are waived for a journey person license or master license if the applicant meets the requirements set forth in Iowa Code section 105.18(4).

641—29.9(105) Reactivation of an inactive license.

29.9(1) An inactive license is not valid for practice but must be renewed in accordance with rule 641—29.7(105). If an inactive license has not been timely renewed and becomes lapsed, the requirements for reinstatement of the license will have to be met. A person with an inactive license that is not lapsed who is seeking to reactivate the license shall:

- a.* Submit a written request to the board office for active license status; and
- b.* Pay the fee for an active license in the amount specified in 641—Chapter 28.

29.9(2) A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal period following reactivation.

641—29.10(105) Review of applications.

29.10(1) Upon receipt of a completed application, the board executive officer or designee has discretion to:

- a.* Authorize the issuance of the license, certification, or examination application.
- b.* Refer the application to a committee of the board for review and consideration when the board executive officer determines that matters raised in or revealed by the application are relevant in determining the applicant’s qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

- (1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 641—29.13(105).
- (2) Chemical dependence.
- (3) Competency.
- (4) Physical or psychological illness or disability.
- (5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.
- (6) Professional disciplinary history.
- (7) Education or experience.

29.10(2) Following review and consideration of an application referred by the board executive officer, the committee may at its discretion:

- a.* Authorize the issuance of the license, certification, or examination application.
- b.* Recommend to the board denial of the license, certification, or examination application.
- c.* Recommend to the board issuance of the license or certification under certain terms and conditions or with certain limitations.
- d.* Refer the license, certification, or examination application to the board for review and consideration without recommendation.

29.10(3) Following review and consideration of a license, certification, or examination application referred by the committee, the board will:

- a.* Authorize the issuance of the license, certification, or examination application;
- b.* Deny the issuance of the license, certification, or examination application; or

c. Authorize the issuance of the license or certification under certain terms and conditions or with certain limitations.

29.10(4) The committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

641—29.11(105) Grounds for denial of an application. The board may deny an application for license, certification, or examination for any of the following reasons:

1. Failure to meet the requirements for license, certification, or examination as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 105.22, upon any of the grounds for which licensure may be revoked or suspended.

641—29.12(105) Use of criminal convictions in eligibility determinations and initial licensing decisions.

29.12(1) License application. Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

a. *Full disclosure.* An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. *Documentation and personal statement.* An applicant with one or more convictions must submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

c. *Rehabilitation.* As part of the license application an applicant will submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

d. *Nonrefundable fees.* Any application fees will not be refunded if the license is denied.

29.12(2) Eligibility determination. An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with a conviction does not have to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner must submit all of the following:

- a. A completed eligibility determination form, which is available on the board's website;
- b. The complete criminal record for each of the petitioner's convictions;
- c. A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner is rehabilitated;
- d. All evidence of rehabilitation that the petitioner wants the board to consider; and
- e. Payment of a nonrefundable fee in the amount of \$25.

29.12(3) Appeal. A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing nondisciplinary contested case proceedings apply unless otherwise specified in this rule. If the petitioner fails to timely appeal, the board's written decision will become a final order.

a. *Presiding officer.* The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 641—33.10(17A), that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

b. *Burden.* The office of the attorney general will represent the board's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

c. *Judicial review.* A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding is in accordance with Iowa Code chapter 17A.

29.12(4) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner cannot submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant cannot submit a subsequent license application or a petition for eligibility

determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20, 105.22, 272C.3, and 272C.15.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	2,390
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	110

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 230, 2023	Total Rule Count:	8
IAC #:	641	Chapter/ SubChapter/ Rule(s):	30	Iowa Code Section Authorizing Rule:	105, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The overall benefit of this chapter is to ensure public safety by having a properly trained workforce. Continuing education ensures that the individuals are training on the newest codes, methods, and products available in the industry.

641—30.1(105) Definitions. The intended benefit of this rule is to define terms used in the chapter.

641—30.2(105) Continuing education requirements. The intended benefit of this rule is to explain the continuing education requirements for licensees, including the amount and type of continuing education that must be obtained during the compliance period, and the licensee’s responsibility to maintain records and finance the cost of continuing education.

641—30.3(105) Continuing education programs/activities. The intended benefit of this rule is to explain the standards applicable to continuing education programs/activities and the board’s procedure and standards for approval of programs/activities.

641—30.4(105) Course instructor(s). The intended benefit of this rule is to explain the board’s procedure and standards for approval of individuals seeking to instruct continuing education programs/activities.

641—30.5(105) Compliance review of continuing education requirements. The intended benefit of this rule is to explain the board’s process for discretionary review of a licensee’s license renewal application to determine compliance with continuing education requirements.

641—30.6(105) Continuing education exemptions. The intended benefit of this rule is to explain the circumstances under which a licensee may receive an automatic exemption, or seek a permissive exemption, to some or all of the continuing education requirements.

641—30.7(105) Continuing education extensions. The intended benefit of this rule is to explain the circumstances under which the board may grant an extension of time within which to fulfill the minimum

continuing education requirements.

641—30.8(105) Continuing education reporting requirements. The intended benefit of this rule is to explain the reporting requirements for course instructors.

Is the benefit being achieved? Please provide evidence.

641—30.1(105) Definitions. Yes

641—30.2(105) Continuing education requirements. Yes, licensees know what type and how many CEU's are required in order to maintain their licenses.

641—30.3(105) Continuing education programs/activities. Yes, training provider know what content is expected in order to be approved for CEU courses.

641—30.4(105) Course instructor(s). Yes, instructors know the standards and procedures to be approved for CEU courses.

641—30.5(105) Compliance review of continuing education requirements. Yes, licensees and the industry know that there may be a compliance review related to CEU's needed to maintain licensure.

641—30.6(105) Continuing education exemptions. Yes, licensees and the industry know when individuals are exempt from the CEU requirements.

641—30.7(105) Continuing education extensions. Yes, licensees and the industry know that extension may be granted in some circumstances. The process for an extension is also known throughout the industry.

641—30.8(105) Continuing education reporting requirements. Yes

What are the costs incurred by the public to comply with the rule?

There are costs associated with licensees taking the required CEU's. The board does not set these costs nor does it track these costs. In order to provide data, we researched common training providers.

For online courses we looked at 7 different providers and 12 different courses. The number of hours earned varied but the average course cost \$78 with a range of \$18-160.

For in-person courses we looked at 7 different providers and 27 different courses. The number of hours earned varied, but the average course cost \$241 with a range of \$85-320. Several providers offer a full day in-person course that meets all of the requirement for one license. Those ranged from \$165-\$320 depending on an organizational membership.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no specific financial costs to implement/enforce the rule outside of any costs associated with the

board's statutory duties pursuant to Iowa Code chapter 105.

Do the costs justify the benefits achieved? Please explain.

Yes, the rules themselves add relatively little cost beyond any costs substantively incurred due to the requirements of Iowa Code chapter 105. Furthermore, the cost of CEU's is relatively small when compared to benefit of having properly trained workforce in this industry. When using properly trained individuals the public can have confidence that this important work is done safely and correctly.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Prior to statewide licensing in 2010 local jurisdictions had their own continuing education requirements or none at all. There was no uniformity and individual often had to have multiple CEU's for multiple jurisdictions depending on what codes were applicable in those different jurisdictions. There is now uniformity for continuing education and the entire industry is following the same rules due to the requirements of Iowa Code chapter 105 and rules discussed herein that clarify and implement it. The rules discussed herein are already the least restrictive implementation of Chapter 105.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within this chapter was edited to eliminate language described above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 30
CONTINUING EDUCATION FOR PLUMBING AND
MECHANICAL SYSTEMS PROFESSIONALS

641—30.1(105) Definitions. The definitions set forth in Iowa Code section 105.1 are incorporated herein by reference. For the purpose of these rules, the following definitions apply:

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Compliance review” means the selection by the board of licensees for verification of satisfactory completion of continuing education requirements during a specified continuing education compliance period.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve,

or expand a licensee's knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Continuing education compliance period" means the period between renewals during which a licensee must obtain the requisite amount of continuing education in order to renew the licensee's license.

"Hour of continuing education" means at least 50 minutes spent in one sitting by a licensee in actual attendance at and in completion of an approved continuing education activity.

"Iowa mechanical code" means the most current version of the International Mechanical Code, as adopted and amended by the board.

"Iowa plumbing code" means the most current version of the Uniform Plumbing Code, as adopted and amended by the board.

"License" means a license to work in a specific discipline covered under Iowa Code chapter 105.

"Licensee" means any person licensed to practice pursuant to Iowa Code chapter 105.

641—30.2(105) Continuing education requirements.

30.2(1) The continuing education compliance period begins on the license issue date and ends on the license expiration date.

30.2(2) During each continuing education compliance period, each active or inactive master and journeyman licensee shall obtain the following continuing education:

a. Safety education. Two hours of continuing education in the content area of the Iowa Occupational Safety and Health Act if holding a single license and four hours if holding multiple licenses.

b. Code education.

(1) Two hours of continuing education in the content area of the Iowa mechanical code if holding one or more licenses or sublicenses in a mechanical discipline.

(2) Two hours of continuing education in the content area of the Iowa plumbing code if holding a plumbing license or sublicense.

c. Discipline education.

(1) Four hours of continuing education in the discipline in which the licensee holds a license if holding a single plumbing license or sublicense, or a single license or sublicense in a mechanical discipline.

(2) Eight hours of continuing education in the relevant disciplines if holding multiple licenses or sublicenses .

d. Private school or college maintenance specialty license. For the purposes of this subrule, a private school or college routine maintenance specialty license is considered to be a sublicense of whatever discipline(s) in which the licensee actually practices.

e. An individual possessing one or more inactive special restricted licenses under 641—subrule 23.8(3) does not have to complete any continuing education hours for the special restricted license so long as the person remains actively licensed as an apprentice.

30.2(3) Up to one-half of board-approved continuing education mandated by subrule 30.2(2) each continuing education compliance period may be obtained through completion of computer-based, including online, continuing education programs/activities approved by the board.

30.2(4) It is each licensee's responsibility to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements. Licensees may attend a continuing education course more than once during a continuing education compliance period. However, licensees who attend a course more than once cannot count the approved hours for that course toward the applicable continuing education requirement more than once during the continuing education compliance period.

30.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

30.2(6) A licensee who is a presenter of a board-approved continuing education program may receive credit once per continuing education compliance period for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

641—30.3(105) Continuing education programs/activities.

30.3(1) *Standards for continuing education programs/activities.* A program/activity is appropriate for continuing education credit if the program/activity meets all of the following criteria:

a. Is board-approved;

b. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

c. Pertains to subject matters that integrally relate to the practice of the discipline;

d. Is conducted by individuals who have obtained board approval as set forth in subrule 30.4(1). This criterion is not

applicable to computer-based continuing education programs/activities conducted pursuant to subrule 30.2(3);

- e. Fulfills stated program goals, objectives, or both; and
- f. Covers product knowledge, methods, and systems of one or more of the following:
 - (1) The theory and technique for a specific discipline;
 - (2) The current Iowa plumbing code, Iowa mechanical code, or both;
 - (3) The standards comprising the current Iowa Occupational Safety and Health Act.

30.3(2) Board approval. Board approval for specific programs/activities under paragraph 30.3(1)“a” will be valid for three years.

30.3(3) Procedure and standards for board approval of continuing education programs/activities.

a. For non-computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

- (1) File an application in the form prescribed by the board without alteration at least 60 days prior to the first scheduled course date;
- (2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours; and
- (3) Attach a schedule of courses, if known, indicating the course’s or activity’s proposed scheduled locations, dates, and times.

b. For computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

- (1) File an application in the form prescribed by the board without alteration;
- (2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours;
- (3) Attach a schedule of courses, if known, indicating the course’s or activity’s proposed scheduled locations, dates, and times;
- (4) Provide a brief summary of the training product;
- (5) Provide a copy of the visual aids, or other materials included with the course or activity; and
- (6) Provide the names, contact information, and qualifications or résumés of the training designers.

30.3(4) Board member attendance. With board approval, board members may attend any board-approved continuing education program/activity for purposes of determining whether the continuing education program/activity complies with these rules. In the event a board member attends a board-approved continuing education program/activity with the purpose of determining whether the continuing education program/activity complies with these rules, the board member cannot receive any continuing education credit for those hours in attendance.

641—30.4(105) Course instructor(s).

30.4(1) Procedure and standards for board approval of instructors. An individual seeking board approval to instruct continuing education programs/activities will:

- a. File an application in the form prescribed by the board without alteration;
- b. Attach copies of documents, licensures, degrees, and other materials demonstrating compliance with the requirements for the type of continuing education program/activity as set forth below.

(1) If seeking approval to instruct in the content area of the Iowa Occupational Safety and Health Act, an individual must either possess and maintain a current Occupational Safety and Health Act 500, 501, 502, or 503 card or completion certificate, or both, or possess a current train-the-trainer or instructor card or other certification or safety-related degree or diploma issued by the American Heart Association, American Red Cross, National Safety Council, Board of Certified Safety Professionals, or board-approved equivalent.

(2) If seeking approval to instruct in the content area of the Iowa plumbing code or Iowa mechanical code, or both, an individual must:

- 1. Possess a current license issued by the board at the journey or master level in the applicable discipline under that code,
- 2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
- 3. Present evidence of having taught at least eight contact hours in the applicable code within the last three years,
- 4. Possess a current inspector or plans examiner certificate issued by a code body in the discipline, or
- 5. Demonstrate equivalent specialized education or training.

(3) If seeking approval to instruct in the content area of a practice discipline, an individual must:

- 1. Possess a current license issued by the board at the journey or master level in the applicable discipline,
- 2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
- 3. Provide evidence of employment as a product representative with manufacturer training,
- 4. Present evidence of having taught at least eight contact hours in the applicable discipline within the last year, or

5. Demonstrate equivalent specialized education or training.

30.4(2) Board approval. Board approval for an instructor under subrule 30.4(1) will be valid for three years.

641—30.5(105) Compliance review of continuing education requirements. The board may conduct a review of a licensee's license renewal application to determine compliance with continuing education requirements.

30.5(1) Upon board request, the licensee must submit to the board an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor or course instructor containing the course title, date(s), contact hours, sponsor's name, and licensee's name. In some instances, licensees will be requested to provide to the board additional information including, but not limited to, program content, objectives, presenters, location, and schedule. An inclusive brochure may be acceptable.

30.5(2) A licensee must submit all information set forth in subrule 30.5(1) within 30 calendar days following the board's request. The board may grant extensions on an individual basis.

30.5(3) If the submitted materials are incomplete or unsatisfactory and the board determines that the deficiency was the result of good-faith conduct on the part of the licensee, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. A licensee must complete the continuing education hours and submit documentation establishing completion of the required make-up continuing education hours to the board within 120 calendar days from the date of the board's finding of good-faith conduct.

30.5(4) A licensee's failure to provide the board with an accurate mailing address is not an excuse for noncompliance with this rule.

641—30.6(105) Continuing education exemptions.

30.6(1) Automatic exemptions. A licensee will be exempt from the continuing education requirement during the continuing education compliance period when that person:

- a. Served honorably on active duty in the military service; or
- b. Resided in another state or district having continuing education requirements for the discipline and met all mandates of that state or district for practice therein; or
- c. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- d. Was absent from the state but engaged in active practice under circumstances which are approved by the board; or
- e. Obtained a journeyman license by examination provided that the licensee maintains the same renewal date as the licensee's apprentice license. This automatic exemption only applies to the licensee's first renewal of the journeyman license.
- f. Obtained a specialty, journeyman, or master license with less than one year remaining in the continuing education compliance period. This exemption applies only to the licensee's first renewal of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period.
- g. Possesses an inactive specialty license under 641—subrule 23.8(3) and is also actively licensed as an apprentice.

30.6(2) Permissive exemptions. The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements.

- a. A licensee seeking a permissive exemption will apply to the board, in such form as the board may prescribe.
- b. A licensee seeking a permissive exemption will provide all such documentary evidence as the board may request to establish the exceptional hardship or extenuating circumstances.
- c. In the event of a claimed physical or mental disability or illness, the board may request information from a licensed health care professional who can attest to the existence of any such disability or illness.
- d. A licensee who applies for a permissive exemption will be notified in writing of the board's decision.
- e. In granting an exemption, the board may impose any such additional conditions on the exemption including, but not limited to, the requirement that the licensee make up a portion of the continuing education requirements.
- f. In lieu of granting a full or partial exemption, the board may grant the licensee an extension of time in which to complete the continuing education requirements.
- g. The granting of an exemption will not keep a licensee from seeking, or the board from granting, an exemption in a subsequent biennial continuing education compliance period(s).
- h. Permissive exemptions will only be granted in the most exceptional and extraordinary of circumstances.

641—30.7(105) Continuing education extensions. The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time within which to fulfill the minimum continuing education requirements if the request for extension is made prior to the license expiration date. Hardship or extenuating circumstances include documented circumstances beyond the control of the licensee which prevent attendance at necessary activities.

641—30.8(105) Continuing education reporting requirements.

30.8(1) Non-computer-based continuing education programs/activities. For non-computer-based continuing education programs/activities, at the conclusion of each continuing education course, the course instructor will:

a. Inform each attending licensee that a survey of the course and instructor may be completed and submitted by the licensee to the board through either a board-approved written or online evaluation form.

b. Provide a certificate of completion to each licensee who attends the course. The certificate of completion will include the following information:

- (1) The licensee’s full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The number of program contact hours;
- (6) The instructor’s full name and board-approved identification number; and
- (7) The instructor’s signature.

c. Submit to the board a typed or electronic course completion roster within 30 days following the completion of the course. The course completion roster will contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course;
- (6) The number of program contact hours;
- (7) The instructor’s full name and board-approved identification number; and
- (8) The instructor’s signature.

30.8(2) Computer-based continuing education programs/activities. For computer-based continuing education programs/activities under subrule 30.2(3), at the conclusion of each computer-based continuing education course, the person authorized to monitor and verify attendance/course completion will:

a. Provide a certificate of completion to each licensee who completes the course. The certificate of completion will include the following information:

- (1) The licensee’s full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date the course was completed; and
- (5) The number of program contact hours.

b. Submit to the board a typed or electronic course completion roster within 30 days following a licensee’s completion of a computer-based continuing education course. The course completion roster will contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course; and
- (6) The number of program contact hours.

These rules are intended to implement Iowa Code chapters 105 and 272C.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	62

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation

43

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	16
IAC #:	641	Chapter/ SubChapter/ Rule(s):	31	Iowa Code Section Authorizing Rule:	17A,9A
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The goal of 641—Chapter 31 is to provide generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers.

Is the benefit being achieved? Please provide evidence.

Yes, consistent and generally applicable standards are established.

What are the costs incurred by the public to comply with the rule?

Costs to the public include minimal administrative costs associated with submitting a request for waiver to the board if a waiver is sought, and potentially providing additional information to the board, if necessary, for the board to decide on the request.

What are the costs to the agency or any other agency to implement/enforce the rule?

Any costs to the board are minimal administrative costs and associated directly with receiving, reviewing, and responding to the requests for waiver. Chapter 31 does not create any burdensome or costly requirements.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 31 contains standard provisions that are uniform across many boards and agencies. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, “Uniform Waiver Rules,” which is substantially similar to 641—Chapter 31.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, see above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641-31.1 through 31.16.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	16
Proposed word count reduction after repeal and/or re-promulgation	1999
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	28

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 30, 2023	Total Rule Count:	6
IAC #:	641	Chapter/ SubChapter/ Rule(s):	32	Iowa Code Section Authorizing Rule:	105, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—32.1(105,272C) Definitions. The intended benefit of this rule is to define terms used in this chapter.

641—32.2(105,272C) Grounds for discipline. The intended benefit of this rule is to explain the acts of offenses for which the board may impose disciplinary sanctions in accordance with Iowa Code chapters 105 and 272C.

641—32.3(105,272C) Method of discipline. The intended benefit of this rule is to explain the disciplinary sanctions the board has the authority to impose.

641—32.4(272C) Discretion of board. The intended benefit of this rule is to explain the factors that may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed.

641—32.5(105) Civil penalties. The intended benefit of this rule is to explain the practices by an unlicensed person that are subject to civil penalties; the board’s authority to investigate unlicensed persons, including the issuance of subpoenas; the board’s procedure for imposing civil penalties; and the unlicensed person’s right to request a hearing or seek judicial review.

641—32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts. The intended benefit of this rule is to explain the board’s option to participate in a state income setoff program, and the board’s process for such participation.

Is the benefit being achieved? Please provide evidence.

Overall, the benefits of the chapter are being achieved. As a general matter, licensees and the industry know the expectations for licensure, and the grounds and process for discipline. There are 11, 629 licensed individuals and 2,035 licensed businesses. In 2022, the board received 68 complaints which resulted in 97 investigations. The board issued 66 disciplinary actions, including 59 for unlicensed work. Many of the complaints for non-licensed individuals come from properly licensed individuals and businesses. Generally, first offense actions for non-licensed work are relatively small (\$500 per violation) and get settled for even

less (\$250 per violation) provided that the individual and/or business get properly licensed. The board has consistently taken the approach that getting non-licensed individuals and/or businesses properly trained and licensed is the priority and the best way to protect the public. The rules provide consistent guidance to and appropriate regulation of the industry to meet the public safety goals espoused by Iowa Code chapter 105 and these implementing rules.

What are the costs incurred by the public to comply with the rule?

There are no costs to the general public to comply with these rules. Any costs associated with this chapter are incurred by licensees in the course of obtaining and maintaining their licenses, and the potential for a civil money penalty as a licensing sanction.

What are the costs to the agency or any other agency to implement/enforce the rule?

The board has an investigator that follows up on any alleged violations of the rules of this chapter as required by Iowa Code section 105.28. There are also costs for the database that houses all of the information needed for licensure.

Do the costs justify the benefits achieved? Please explain.

Yes, the rules themselves add very little cost beyond any costs substantively incurred due to the requirements of Iowa Code chapter 105. Furthermore, the cost of ensuring proper licensure is relatively small when compared to benefit of having properly trained and supervised workforce in this industry. When using properly licensed businesses and individuals the public can have confidence that this important work is done safely and correctly.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Prior to statewide licensing in 2010, local jurisdictions had their own licensing requirements or none at all. There was no uniformity in the way discipline was handled and no way for the public to easily know what individuals and business had disciplinary issues. There is now uniformity for licensing and discipline and the entire industry is following the same rules due to the requirements of Iowa Code chapter 105 and rules discussed herein that clarify and implement it. Disciplinary actions are publicly available in one location. The rules discussed herein are already believed to be the least restrictive implementation of Chapter 105.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within this chapter was edited to eliminate language described above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 32
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

641—32.1(105,272C) Definitions. The definitions set forth in Iowa Code section 105.1 are incorporated herein by reference. For purposes of this chapter, the following definitions also apply:

“*Conviction*” means the same as in 641—Chapter 29.

“*Directly relates*” or “*directly related*” means the same as Iowa Code section 272C.1(8)(a)–(b).

“*Discipline*” means any sanction the board may impose upon licensees.

“*Disqualifying conviction*” or “*disqualifying offense*” means the same as in 641—Chapter 29.

“*Lapsed license*” means a license that has expired. A lapsed license is no longer valid for practice.

“*Licensee*” means any person licensed to practice pursuant to Iowa Code chapter 105.

641—32.2(105,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 641—32.3(105,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

32.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma, certificate, affidavit, identification or qualification in making an application for a license in this state.

32.2(2) Professional incompetence. Professional incompetence includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the applicable licensed trade.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by others licensed in the applicable trade in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensee in the applicable trade in this state.

e. Inability to practice in the trade with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

32.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

32.2(4) Habitual intoxication or addiction to the use of drugs.

32.2(5) Conviction of a disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the final order or judgment or conviction or plea of guilty in this state or another state, territory, or country constitutes conclusive evidence of the conviction.

32.2(6) Fraud in representations as to skill or ability.

32.2(7) Use of untruthful or improbable statements in advertisements.

32.2(8) Willful or repeated violations of Iowa Code chapter 105 or 272C.

32.2(9) Violation of a board rule.

32.2(10) Nonpayment of a state debt as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 272D and 641—Chapter 194.

32.2(11) Permitting another person to use the licensee’s wall certificate, wallet card, or license number for any purpose.

32.2(12) Failure to timely submit the requested materials in response to a compliance review conducted pursuant to 641—30.5(105).

32.2(13) Failure to meet the continuing education requirements for licensure.

32.2(14) Submission of a false report of continuing education.

32.2(15) Failure to pay any outstanding fees or costs owed to the board.

32.2(16) Acceptance of any fee by fraud or misrepresentation.

32.2(17) Negligence by the licensee in the practice of the trade. Negligence by the licensee in the practice of the trade includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice, or conditions which impair the ability to safely and skillfully practice the trade.

32.2(18) Violation of a law, ordinance, or regulation of this state, or a political subdivision therein, another state, or the United States, which relates to the practice of the profession.

32.2(19) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court does not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board.

32.2(20) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice in the trade in another state, district, territory, or country.

32.2(21) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

32.2(22) Failure to notify the board within 30 days after the occurrence of any judgment entered on or settlement of a claim or action related to the profession.

32.2(23) Engaging in any conduct that subverts or attempts to subvert a board investigation.

32.2(24) Failure to comply with a subpoena issued by the board or otherwise fail to cooperate with an investigation of the board.

32.2(25) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

32.2(26) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

32.2(27) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice a trade included in Iowa Code chapter 105.

32.2(28) Failure to report a change in name or address within 30 days after it occurs.

32.2(29) Representing oneself as a licensed tradesperson when one's license has been suspended or revoked or when the license is on inactive status.

32.2(30) Permitting another person to use the licensee's license for any purpose.

32.2(31) Permitting an unlicensed employee or person under the licensee's control to perform activities necessitating a license.

32.2(32) Failure to apply and obtain a permit prior to performing work, if mandated by the state or a political subdivision therein.

32.2(33) Failure to pay all inspection fees, if required by the state or a political subdivision therein.

32.2(34) Failure to pay a permit fee, if required by the state or a political subdivision therein.

32.2(35) Practice outside the scope of the license, which includes, but is not limited to:

- a. Practicing as a journeyman without the supervision of a master.
- b. Practicing in a trade for which the licensee does not hold a board-issued license.
- c. Contracting for plumbing or mechanical work in the state of Iowa without a board-issued contractor license.

32.2(36) Practicing on a lapsed license.

32.2(37) Practicing as a contractor without valid bonding or insurance, as mandated by Iowa Code section 105.19.

641—32.3(105,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Mandate additional education or training.
6. Mandate a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$5000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

641—32.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;

4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

641—32.5(105) Civil penalties—unlicensed persons. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 105.27(1). In addition to the procedures set forth in Iowa Code chapters 105 and 272C, this chapter applies.

32.5(1) Unlawful practices. Practices by an unlicensed person which are subject to civil penalties include, but are not limited to:

- a. Acts or practices by unlicensed persons which necessitate licensure to install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems under Iowa Code chapter 105.
- b. Acts or practices by unlicensed persons which necessitate certification to install or repair medical gas piping systems under Iowa Code chapter 105.
- c. Engaging in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without employing a licensed master.
- d. Providing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems services on a contractual basis.
- e. Use or attempted use of a licensee's certificate or wallet card or use or attempted use of an expired, suspended, revoked, or nonexistent certificate.
- f. Falsely impersonating a person licensed under Iowa Code chapter 105.
- g. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
- h. Other violations of Iowa Code chapter 105.
- i. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

32.5(2) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and Iowa Code chapters 105 and 272C to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

32.5(3) Subpoenas. Pursuant to Iowa Code section 17A.13(1) and Iowa Code chapter 105, the board is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 641—34.5(105).

32.5(4) Notice of intent to impose civil penalties. Notice of the board's intent to order compliance with Iowa Code chapter 105 and impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty and the nature of the intended order.
- e. Notice of the nonlicensee's right to a hearing and the time frame in which the hearing must be requested.
- f. The address to which written request for hearing must be made.

32.5(5) Requests for hearings.

a. Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

b. If a request for hearing is not timely made, or if the nonlicensee waives in writing the right to hearing and agrees to pay the penalty, the board chairperson, the chairperson's designee, or the board executive may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 105, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

c. If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

d. Subsequent to the issuance of a notice of hearing under this subrule, the settlement agreement provisions of 641—

33.23(272C) apply.

e. The notice of intent to issue an order and the order are public records pursuant to Iowa Code chapter 22. Copies may be published. Hearings are open to the public.

32.5(6) Factors for board consideration. The board may consider the following when determining the amount of civil penalty to impose, if any:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
- b. The circumstances leading to or resulting in the violation.
- c. The severity of the violation and the risk of harm to the public.
- d. The economic benefits gained by the violator as a result of noncompliance.
- e. The welfare or best interest of the public.

32.5(7) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement.

32.5(8) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board will notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction pursuant to Iowa Code section 105.27(4).

641—32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts.

32.6(1) The board may participate in an income setoff program administered by the department of revenue in accordance with Iowa Code section 421.65 and rules promulgated thereunder.

32.6(2) Definitions. For purposes of this rule, the following definitions apply:

“*Debtor*” means any person who owes a debt to the board as a result of a proceeding in which notice and opportunity to be heard was afforded.

“*Income offset program*” means the program established in Iowa Code section 421.65 and any rules promulgated thereunder through which the department of revenue coordinates with state agencies to satisfy liabilities owed to those state agencies.

32.6(3) The board office may provide the department of administrative services a liability file containing pertinent information for the identification of the debtor and liability, including if the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

32.6(4) Due diligence.

a. Before submitting debtor information to the outstanding liability file, the board office will make a good faith attempt to collect from the debtor. Such attempt will include at least all of the following:

- (1) A telephone call requesting payment.
- (2) An initial letter to the debtor’s last discernible address requesting payment within 15 days.
- (3) A second letter to the debtor’s last discernible address requesting payment within 10 days.

b. The board office will document due diligence and retain such documentation.

32.6(5) Notification of offset. Within 10 calendar days of receiving notification from the department of revenue that the debtor is entitled to a payment subject to the setoff program, the board office will:

a. Send a preoffset notice to the debtor. The preoffset notice will inform the debtor of the amount the department intends to claim, including all of the following information:

- (1) The board’s right to the payment in question.
- (2) The board’s right to recover the payment through the setoff procedure.
- (3) The basis of the board’s case in regard to the debt.
- (4) The right of the debtor to request, in accordance with subrule 32.6(6) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

(5) The debtor’s right to appeal the offset, in accordance with subrule 32.6(7) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.

(6) The board office’s contact information in case of questions.

b. Notify the department of revenue that the preoffset notice has been sent to the debtor, and supply a copy of the preoffset

notice to the department of revenue.

32.6(6) Request to divide a jointly or commonly owned right to payment.

a. A debtor who receives a preoffset notice may request release of a joint or common owner's share, if the request is received by the board within 15 days of the date the preoffset notice is mailed.

b. In conjunction with such a request, the debtor shall provide to the board the full name and social security number of any joint or common owner.

c. Upon receipt of such a request, the board office will notify the department of revenue of the request.

32.6(7) Appeal process. A debtor who receives a preoffset notice may request an appeal of the underlying debt within 15 days of the date the preoffset notice is mailed. A contested case appeal will be conducted pursuant to 641—Chapter 33. The board will notify the department of revenue within 45 days of the notification of setoff. The board will hold a payment in abeyance until the final disposition of the contested liability or setoff.

32.6(8) Once any setoff has been completed, the board office will notify the debtor of the action taken, and what balance, if any, remains owing to the board.

These rules are intended to implement Iowa Code chapters 105 and 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	306
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	39

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 30, 2023	Total Rule Count:	40
IAC #:	641	Chapter/ SubChapter/ Rule(s):	33	Iowa Code Section Authorizing Rule:	17A, 105, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—33.1(17A,105,272C) Scope and applicability. To explain that this chapter applies to contested case proceedings conducted by the plumbing and mechanical systems board.

641—33.2(17A,105,272C) Definitions. To define terms used in this chapter.

641—33.3(17A) Time requirements. To explain the computation of time for purposes of this chapter.

641—33.4(17A,272C) Probable cause. To explain the commencement of a contested case if the board finds probable cause for taking disciplinary action against a licensee.

641—33.5(17A,272C) Informal settlement. To explain the process for informal settlement of a disciplinary case prior to filing a statement of charges and notice of hearing.

641—33.6(17A) Statement of charges. To explain the service/delivery of the statement of charges and notice of hearing, and what must be contained in the statement of charges and notice of hearing.

641—33.7(17A) Requests for contested case proceeding. To explain what must be contained in a request for a contested case proceeding.

641—33.8(105) Legal representation. To explain that the public interest will be represented by the attorney general’s office following the filing of a statement of charges and notice of hearing, and that all other parties may be represented by counsel at their own expense.

641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case. To explain which entities or individuals may serve as the presiding officer in a disciplinary contested case.

641—33.10(17A) Presiding officer in a nondisciplinary contested case. To explain the process for a party to request, and the board to consider, that an administrative law judge serve as the presiding officer in a nondisciplinary contested case.

641—33.11(17A) Disqualification. To explain the circumstances under which a presiding officer must withdraw from participation in the decisions of a contested case due to disqualification or conflict.

641—33.12(17A) Consolidation—severance. To explain the circumstances under which the presiding officer may consolidate matters in two or more contested cases, or order severance of any contested case proceeding.

641—33.13(17A) Pleadings. To explain when pleadings may be required, the requirements for filing an answer, and when a pleading may be amended.

641—33.14(17A) Service and filing. To explain the requirements for service in contested cases.

641—33.15(17A) Discovery. To explain the applicable discovery procedures, motions related to discovery, and the use of evidence obtained in discovery.

641—33.16(17A,272C) Subpoenas in a contested case. To explain the process for requesting a subpoena, the contents of the request, the contents of the subpoena and the methods to challenge a subpoena.

641—33.17(17A) Motions. Provides time frames for filing motions and necessary information to include in motions.

641—33.18(17A) Withdrawals. To explain the process for withdrawals of requests for a contested case proceeding.

641—33.19(17A) Intervention. To explain the process and requirements for motions for leave to intervene in a contested case proceeding.

641—33.20(17A) Telephone proceedings. To explain when proceedings may be held by telephone conference.

641—33.21(17A) Prehearing conferences. To explain the process for requesting a prehearing conference and the content of prehearing conferences/orders.

641—33.22(17A) Continuances. To explain the process and requirements for an application for continuance, and the factors that may be considered in determining whether to grant a continuance.

641—33.23(272C) Settlement agreements. To explain the conduct of settlement negotiations and the effect of a consent order.

641—33.24(17A) Hearing procedures. To explain the procedures for conducting the contested hearing.

641—33.25(17A) Evidence. To explain what evidence is allowed to be considered in a contested hearing and the procedures for admission or exclusion of evidence.

641—33.26(17A) Default. To explain the circumstances for default and procedures for appealing a default decision.

641—33.27(17A) Ex parte communication. To explain what constitutes prohibited communications between the presiding officer and any other party and the requirements for disclosure and disqualification of the presiding officer, and sanctions for violations of the rule.

641—33.28(17A) Recording costs. Allows for the copy of the record of a contested hearing at the cost of the requesting party.

641—33.29(17A) Interlocutory appeals. Provides rules on filing an interlocutory appeal including timelines and content of the appeal.

641—33.30(17A,272C) Decisions. To explain final decisions and proposed panel decisions, and the appeal of proposed panel decisions.

641—33.31(17A,272C) Client notification. To explain the requirement that a licensee notify the licensee's current clients after the board's final decision suspending, revoking, or accepting voluntary surrender of a license.

641—33.32(17A,272C) Application for rehearing. Provides rules on filing an application for rehearing including who may file, the content of the application, filing deadline, notice to parties and disposition.

641—33.33(17A) Stays of board actions. Provides rules on when a party may ask to stay board actions and when it is granted.

641—33.34(17A) No factual dispute contested cases. Allows a procedure for evidence to be submitted by stipulation without the need for an evidentiary hearing.

641—33.35(17A) Emergency adjudicative proceedings. Allows the board to issue a written emergency adjudicative order when there is a danger to the public health, safety or welfare.

641—33.36(17A,105,272C) License denial. Provides rules to appeal a license denial and timeframe for doing so.

641—33.37(17A,105,272C) Denial of application to renew license. To explain the process for contesting the denial of an application to renew a license.

641—33.38(105,272C) Recovery of hearing fees and expenses. To explain the fees and expenses relating to a disciplinary hearing that may be assessed by the board.

641—33.39(17A) Judicial review. To explain the process for seeking judicial review of the board’s decision.

641—33.40(17A,272C) Reinstatement. To explain who can apply for reinstatement and how to apply for reinstatement if the license has been revoked or suspended.

Is the benefit being achieved? Please provide evidence.

Yes, the intended benefit of each rule is being achieved.

What are the costs incurred by the public to comply with the rule?

641—33.1(17A,105,272C) Scope and applicability. N/A

641—33.2(17A,105,272C) Definitions. N/A

641—33.3(17A) Time requirements. None

641—33.4(17A,272C) Probable cause. A party may incur costs related to an investigation and the filing of contested case proceedings.

641—33.5(17A,272C) Informal settlement. None

641—33.6(17A) Statement of charges. The parties may incur costs for service fees, mailing or publication of notice.

641—33.7(17A) Requests for contested case proceeding. None

641—33.8(105) Legal representation. A party may incur costs for legal fees if they choose to hire counsel to represent them.

641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case. None

641—33.10(17A) Presiding officer in a nondisciplinary contested case. None

641—33.11(17A) Disqualification. None

641—33.12(17A) Consolidation—severance. None

641—33.13(17A) Pleadings. None

641—33.14(17A) Service and filing. A party may incur costs for service by mail or personal service.

641—33.15(17A) Discovery. A party may incur costs related to the examination, preparation and responding to discovery requests.

641—33.16(17A,272C) Subpoenas in a contested case. A party may incur costs associated with the service of the subpoena.

641—33.17(17A) Motions. None

641—33.18(17A) Withdrawals. None

641—33.19(17A) Intervention. A party may incur legal fees if they choose to hire counsel to represent them.

641—33.20(17A) Telephone proceedings. None

641—33.21(17A) Prehearing conferences. None

641—33.22(17A) Continuances. None

641—33.23(272C) Settlement agreements. None

641—33.24(17A) Hearing procedures. None

641—33.25(17A) Evidence. None

641—33.26(17A) Default. None

641—33.27(17A) Ex parte communication. None

641—33.28(17A) Recording costs. The public/party is charged with the cost of preparing a copy of the record and transcribing the record.

641—33.29(17A) Interlocutory appeals. None

641—33.30(17A,272C) Decisions. None

641—33.31(17A,272C) Client notification. A party may incur costs to notify current clients as required by the rule.

641—33.32(17A,272C) Application for rehearing. None

641—33.33(17A) Stays of board actions. None

641—33.34(17A) No factual dispute contested cases. None. This rule provides for more time/resource efficiency.

641—33.35(17A) Emergency adjudicative proceedings. None. Without this rule the public could be at risk of harm if a licensee is allowed to continue to practice/work after violating rule provisions that put the public at risk for their safety and welfare.

641—33.36(17A,105,272C) License denial. None

641—33.37(17A,105,272C) Denial of application to renew license. None

641—33.38(105,272C) Recovery of hearing fees and expenses. The licensee may incur fees and expenses if the board finds the licensee has violated a statute or rule enforced by the board.

641—33.39(17A) Judicial review. None

641—33.40(17A,272C) Reinstatement. None

What are the costs to the agency or any other agency to implement/enforce the rule?

641—33.1(17A,105,272C) Scope and applicability. N/A

641—33.2(17A,105,272C) Definitions. N/A

641—33.3(17A) Time requirements. None

641—33.4(17A,272C) Probable cause. The agency incurs the costs of the investigation to determine whether probable cause exists.

641—33.5(17A,272C) Informal settlement. None

641—33.6(17A) Statement of charges. The agency incurs the costs of process service via mail, publication or personal service.

641—33.7(17A) Requests for contested case proceeding. None

641—33.8(105) Legal representation. None

641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case. The agency incurs the cost of the board members for the contested hearings.

641—33.10(17A) Presiding officer in a nondisciplinary contested case. The agency incurs the cost of the board members for the contested hearings.

641—33.11(17A) Disqualification. None

641—33.12(17A) Consolidation—severance. None. This rule saves the agency time and resources.

641—33.13(17A) Pleadings. None

641—33.14(17A) Service and filing. The agency incurs the cost to serve the documents on the other parties.

641—33.15(17A) Discovery. The agency may incur costs related to the research, examination and reporting of requested discovery.

641—33.16(17A,272C) Subpoenas in a contested case. The agency may incur costs related to the service of subpoenas.

641—33.17(17A) Motions. None

641—33.18(17A) Withdrawals. None

641—33.19(17A) Intervention. None

641—33.20(17A) Telephone proceedings. None

641—33.21(17A) Prehearing conferences. None

641—33.22(17A) Continuances. There is no direct cost to the agency to implement/enforce this rule. If a continuance is requested at the last minute, there may be costs of board members or witnesses that would

need to reappear at a future date.

641—33.23(272C) Settlement agreements. None

641—33.24(17A) Hearing procedures. None

641—33.25(17A) Evidence. None

641—33.26(17A) Default. None

641—33.27(17A) Ex parte communication. None

641—33.28(17A) Recording costs. None

641—33.29(17A) Interlocutory appeals. None

641—33.30(17A,272C) Decisions. None

641—33.31(17A,272C) Client notification. None

641—33.32(17A,272C) Application for rehearing. None

641—33.33(17A) Stays of board actions. None

641—33.34(17A) No factual dispute contested cases. None

641—33.35(17A) Emergency adjudicative proceedings. None

641—33.36(17A,105,272C) License denial. None

641—33.37(17A,105,272C) Denial of application to renew license. None

641—33.38(105,272C) Recovery of hearing fees and expenses. None

641—33.39(17A) Judicial review. None

641—33.40(17A,272C) Reinstatement. None

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits achieved for each rule.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The alternative to providing rules and directives on contested case hearings would leave too much discretion to the board and could create a risk of noncompliance with Iowa Code chapters 17A, 105, and 272C or other harm to the public. Additionally, licensees would not have an easily identified procedure to follow to contest the allegations against them.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, the following rules within chapter 33 have a component that falls under one or more of the above referenced categories and can be amended.

641—33.2(17A,105,272C) Definitions.

641—33.3(17A) Time requirements.

641—33.4(17A,272C) Probable cause.

641—33.5(17A,272C) Informal settlement.

641—33.6(17A) Statement of charges.

641—33.7(17A) Requests for contested case proceeding.

641—33.8(105) Legal representation.
641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case.
641—33.10(17A) Presiding officer in a nondisciplinary contested case.
641—33.11(17A) Disqualification.
641—33.13(17A) Pleadings.
641—33.14(17A) Service and filing.
641—33.15(17A) Discovery.
641—33.16(17A,272C) Subpoenas in a contested case.
641—33.17(17A) Motions.
641—33.18(17A) Withdrawals.
641—33.19(17A) Intervention.

641—33.21(17A) Prehearing conferences.
641—33.22(17A) Continuances.
641—33.23(272C) Settlement agreements.
641—33.24(17A) Hearing procedures.
641—33.25(17A) Evidence.
641—33.26(17A) Default.
641—33.27(17A) Ex parte communication.
641—33.28(17A) Recording costs.
641—33.29(17A) Interlocutory appeals.
641—33.30(17A,272C) Decisions.
641—33.31(17A,272C) Client notification.
641—33.32(17A,272C) Application for rehearing.
641—33.33(17A) Stays of board actions.

641—33.35(17A) Emergency adjudicative proceedings.

641—33.37(17A,105,272C) Denial of application to renew license.
641—33.38(105,272C) Recovery of hearing fees and expenses.
641—33.39(17A) Judicial review.
641—33.40(17A,272C) Reinstatement.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 33
PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

641—33.1(17A,105,272C) **Scope and applicability.** This chapter applies to contested case proceedings conducted by the plumbing and mechanical systems board.

641—33.2(17A,105,272C) **Definitions.** Except where otherwise specifically defined by law:

“Board” means the plumbing and mechanical systems board as established pursuant to Iowa Code section 105.3.

“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“Executive officer” means the executive officer for the plumbing and mechanical systems board.

“Issuance” means the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified by rule or in the order.

“License” means a license, registration, certificate, permit or other form of practice permission required by Iowa Code chapter 105.

“Party” means the state of Iowa, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent, or an intervenor.

“Presiding officer” means the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code subsections 272C.6(1) and (2) in a disciplinary contested case.

641—33.3(17A) Time requirements.

33.3(1) Time will be computed as provided in Iowa Code subsection 4.1(34).

33.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

641—33.4(17A,272C) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee, the board will order a contested case hearing commenced by the filing and service of a statement of charges and notice of hearing.

641—33.5(17A,272C) Informal settlement. The board, its staff or agent, or a board committee may attempt to informally settle a disciplinary case before filing a statement of charges and notice of hearing. If the board and the licensee agree to a settlement of the case, a statement of charges will be filed simultaneously with a consent order, whether as separate or combined documents. By electing to sign a consent order, the licensee waives all rights to a hearing and all attendant rights. The consent order has the force and effect of a final disciplinary order entered in a contested case and is an open record. Matters not involving licensee discipline that culminate in a contested case may also be settled through consent order. Procedures governing settlement after notice of hearing is served are described in rule 641—33.23(272C).

641—33.6(17A) Statement of charges and notice of hearing.

33.6(1) Legal review. Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general before it is filed.

33.6(2) Delivery. Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by: personal service or publication as provided in the Iowa Rules of Civil Procedure or certified mail, return receipt requested.

33.6(3) Contents. The statement of charges and notice of hearing will contain the following information:

- a. A statement by the board showing that there is probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties’ counsel where known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing informal settlement;
- i. Identification of the presiding officer as the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code subsections 272C.6(1) and (2); and
- j. A statement requiring the respondent to submit an answer pursuant to subrule 33.13(2) within 20 days after service of the statement of charges.

641—33.7(17A) Requests for contested case proceeding. Any person seeking or claiming entitlement to a contested case hearing shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

33.7(1) Contents of request. The request for a contested case proceeding should:

- a. State the name and address of the requester;
- b. Identify the specific board action which is disputed;
- c. Describe issues of material fact in dispute; and,
- d. Where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved.

33.7(2) Board action on request. If the board grants the request, the board will issue a notice of hearing. If the board denies the request, the board will issue a written order specifying the basis for the denial.

641—33.8(105) Legal representation. Following the filing of a statement of charges and notice of hearing, the office of the attorney general is responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. Other parties to a proceeding before the board may have counsel at their own expense.

641—33.9(17A,105,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case will be the board, a panel of not less than three board members who are licensed under Iowa Code chapter 105, or a panel of nonboard member specialists as provided in Iowa Code subsections 272C.6(1) and (2). The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, including ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberation, or drafting the written decision for review by the board or board panel. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 641—33.29(17A).

641—33.10(17A) Presiding officer in a nondisciplinary contested case.

33.10(1) A nondisciplinary contested case includes license denial proceedings. Any party in a nondisciplinary contested case may request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing by filing a written request within 20 days after service of a notice of hearing identifying or describing the presiding officer as the board.

33.10(2) The board may only deny the request if:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b. An administrative law judge with the qualifications identified in subrule 33.10(4) is unavailable to hear the case within a reasonable time.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is not likely to be dispositive in resolving the disputed factual issues.
- e. The request was not timely filed.
- f. The request is not consistent with a specified statute.

33.10(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 33.10(4), the parties will be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

33.10(4) Except as otherwise provided by a provision or law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling but no later than the time for compliance with the order or the date of the hearing, whichever occurs first.

33.10(5) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board possesses the powers and complies with the provisions of this chapter applicable to presiding officers.

641—33.11(17A) Disqualification.

33.11(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted, or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a

contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated, in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship who:

(1) Is a party to the case, or an officer, director or trustee of a party;

(2) Is a lawyer in the case;

(3) Is known to have an interest that could be substantially affected by the outcome of the case; or

(4) Is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation.

33.11(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information which is relayed to assigned investigators;

c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

33.11(3) Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrule 33.27(9).

33.11(4) By electing to participate in an appearance before the board pursuant to rule 641—34.7(17A), the licensee waives any objection to a board member’s participating as a decision maker in a contested case proceeding on the grounds that the board member “personally investigated” the matter under this provision.

33.11(5) If a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information from the records by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

641—33.12(17A) Consolidation—severance.

33.12(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested cases where:

a. The matters involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

33.12(2) Severance. The presiding officer may, for good cause shown, order any contested case proceeding or portions thereof severed.

641—33.13(17A) Pleadings.

33.13(1) Pleadings. Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

33.13(2) Answer.

a. An answer shall be filed within 20 days of service of the statement of charges and notice of hearing that:

(1) Identifies on whose behalf it is filed;

(2) Sets forth the name, address and telephone number of the person filing the answer, the person on whose behalf it is filed, and the attorney, if any, representing that person;

(3) Specifically admits, denies or otherwise answers all material allegations of the statement of charges; and

(4) Sets forth any facts deemed necessary to show an affirmative defense and contain as many additional defenses as the respondent may claim.

b. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

33.13(3) Amendments. Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

641—33.14(17A) Service and filing.

33.14(1) Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

33.14(2) Service—how made. Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person’s last-known address. Service by mail is completed upon mailing, except where otherwise specifically provided by statute, rule, or order.

33.14(3) Filing—when required. After the statement of charges and notice of hearing, all documents in a contested case proceeding will be filed with the board. All documents that are required to be served upon a party will be filed simultaneously with the board.

33.14(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery to the board; or mailed by first-class or state interoffice mail to the board, so long as there is proof of mailing.

33.14(5) Proof of mailing. Proof of mailing includes:

- a. A legible United States Postal Service postmark on the envelope, or
- b. A certificate of service, or
- c. A notarized affidavit, or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the board and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

641—33.15(17A) Discovery.

33.15(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure.

33.15(2) Any motion relating to discovery shall allege that the moving party has previously made a good faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within 10 days of the filing of the motion unless the time is shortened as provided in subrule 33.15(1). The presiding officer may rule on the basis of the written motion and any response, or may order oral argument.

33.15(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

641—33.16(17A,272C) Subpoenas in a contested case.

33.16(1) Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing and may compel the production of books, papers, records, or other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing or may be issued separately. Subpoenas will be issued by the executive officer or designee upon written request. In the case of a request for a subpoena of mental health records, the request must confirm the conditions described in 641—subrule 34.5(1) prior to the issuance of the subpoena.

33.16(2) A request for a subpoena should include the following information, as applicable, unless the subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes:

- a. The name, address, and telephone number of the person requesting the subpoena;
- b. The name and address of the person to whom the subpoena shall be directed;
- c. The date, time, and location at which the person shall be commanded to attend and give testimony;
- d. Whether the testimony is requested in connection with a deposition or hearing;
- e. A description of the books, papers, records, or other real evidence requested;
- f. The date, time, and location for production, or inspection and copying; and
- g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 641—subrule 34.5(1) have been satisfied.

33.16(3) Each subpoena shall contain, as applicable:

- a.* The caption of the case;
- b.* The name, address, and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records, or other real evidence the person is commanded to produce;
- g.* The date, time, and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address, and telephone number of the board executive officer or designee;
- j.* The date of issuance; and
- k.* A return of service.

33.16(4) Unless a subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes, the executive officer or designee will mail the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

33.16(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case, who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified. It may be accompanied by legal briefs or factual affidavits.

33.16(6) Upon receipt of a timely motion to quash or modify a subpoena, the presiding officer hold a hearing and issue a decision. Oral argument may be scheduled at the discretion of the presiding officer. The presiding officer may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

33.16(7) A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision.

33.16(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

641—33.17(17A) Motions.

33.17(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

33.17(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on the motion.

33.17(3) The presiding officer may schedule oral argument on any motion. If the board requests that an administrative law judge issue a ruling on a prehearing motion, the ruling is subject to interlocutory appeal pursuant to rule 641—33.29(17A).

33.17(4) Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least five days prior to the date of the hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

33.17(5) Motions for summary judgment shall comply with Iowa Rule of Civil Procedure 1.981 and will be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

a. Motions for summary judgment must be filed and served at least 20 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 10 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served.

b. The time fixed for hearing or nonoral submission will be not less than 15 days after the filing of the motion, unless a shorter time is ordered by the presiding officer.

c. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 641—33.32(17A,272C) and appeal pursuant to rule 641—33.30(17A,272C).

641—33.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing upon written notice filed with the board and served on all parties. Unless otherwise ordered by the board, a withdrawal is with prejudice.

641—33.19(17A) Intervention.

33.19(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

33.19(2) When filed. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

33.19(3) Grounds for intervention. The movant shall demonstrate that:

- a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;
- b. The movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and
- c. The interests of the movant are not adequately represented by existing parties.

33.19(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may limit the issues raised by the intervenor or otherwise condition the intervenor's participation.

641—33.20(17A) Telephone proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone. Objections, if any, shall be filed with the board and served on all parties at least three business days in advance of hearing.

[ARC 9057B, IAB 9/8/10, effective 10/13/10]

641—33.21(17A) Prehearing conferences.

33.21(1) Any party may request a prehearing conference. Prehearing conferences will be conducted by the executive officer or designee, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive officer's own motion shall be filed not less than ten days prior to the hearing date. A prehearing conference will be scheduled not less than five business days prior to the hearing date. The executive officer shall set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference will be given by the executive officer to all parties. For good cause the executive officer may permit variances from this rule.

33.21(2) The parties at a prehearing conference will be prepared to discuss the following subjects, and the executive officer or administrative law judge may issue appropriate orders concerning:

- a. The possibility of settlement.
- b. The entry of a scheduling order to include deadlines for completion of discovery.
- c. Stipulations of law or fact.
- d. Stipulations on the admissibility of evidence.
- e. Submission of expert or other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive officer or administrative law judge at the prehearing conference. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
- f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Other than rebuttal exhibits, exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
- g. Stipulations for waiver of any provision of law.
- h. Identification of matters which the parties intend to request to be officially noticed.
- i. Consideration of any additional matters which will expedite the hearing.

33.21(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

641—33.22(17A) Continuances.

33.22(1) Unless otherwise provided, applications for continuance shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the executive officer or designee will issue the appropriate order. If the application for continuance is contested, the matter will be heard by the board or delegated to an administrative law judge.

33.22(2) A written application for continuance will:

a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request for continuance; and

c. Be signed by the requesting party or the party's representative.

33.22(3) An oral application for continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer.

33.22(4) No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

33.22(5) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider any relevant factors, including prior continuances; the interests of all parties; the public interest; the likelihood of informal settlement; the existence of an emergency; any objection; any applicable time requirements; the existence of a conflict in the schedules of counsel, parties, or witnesses; and the timeliness of the request.

641—33.23(272C) Settlement agreements.

33.23(1) Settlement negotiations after the notice of hearing may be initiated by the licensee or other respondent, the prosecuting attorney, the board's executive officer, or the board chair or chair's designee.

33.23(2) The board chair or chair's designee may negotiate on behalf of the board but does not have the authority to bind the board to a particular term of settlement.

33.23(3) The respondent is not obligated to participate in settlement negotiations. The respondent's initiation or consent to settlement negotiations constitutes a waiver of notice and opportunity to be heard during the settlement negotiation pursuant to Iowa Code section 17A.17 and rule 641—33.27(17A). Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chair or chair's designee, and the designated board member is not disqualified from participating in the adjudication of the contested case.

33.23(4) Unless designated to negotiate, no member of the board shall be involved in settlement negotiation until a written consent order is submitted to the full board for approval. No informal settlement will be submitted to the full board unless it is in final written form executed by the respondent. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of the settlement. If the board fails to approve the consent order, it shall be of no force and effect to either party and shall not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement, which the respondent is free to accept or reject.

33.23(5) If the board and respondent agree to a consent order, the consent order constitutes the final decision of the board. By electing to resolve a contested case through consent order, the respondent waives all rights to a hearing and attendant rights. A consent order in a licensee disciplinary case has the force and effect of a final disciplinary order entered in a contested case and may be published as provided in subrule 33.30(1).

641—33.24(17A) Hearing procedures. The presiding officer will be in control of the proceedings and will have the authority to administer oaths, admit or exclude testimony or other evidence, and rule on all motions and objections.

33.24(1) Examination of witnesses. All witnesses shall be sworn or affirmed by the presiding officer or the court reporter and be subject to cross-examination. Board members and the administrative law judge have the right to examine witnesses at any stage of a witness's testimony. The presiding officer may limit questioning in a manner consistent with law.

33.24(2) Public hearing. The hearing will be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public.

33.24(3) Record of proceedings. Oral proceedings will be recorded either by mechanical or electronic means or by certified shorthand reporters. Oral proceedings or any part thereof will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription will be filed with and maintained by the board for at least five years from the date of decision.

33.24(4) Order of proceedings. Before testimony is presented, the record will show the identities of any board members present, the identity of the administrative law judge, the identities of the primary parties and their representatives, and the fact

that all testimony is being recorded. In contested cases initiated by the board, such as licensee discipline, hearings will generally be conducted in the following order, subject to modification at the discretion of the board:

- a. The presiding officer or designee may read a summary of the charges and answers thereto and other responsive pleadings filed by the respondent prior to the hearing.
- b. The assistant attorney general representing the state's interest before the board may make a brief opening statement, which may include a summary of charges and the names of any witnesses and documents to support such charges.
- c. Each respondent shall be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent(s).
- d. The presentation of evidence on behalf of the state.
- e. The presentation of evidence on behalf of the respondent(s).
- f. Rebuttal evidence on behalf of the state, if any.
- g. Rebuttal evidence on behalf of the respondent(s), if any.
- h. Closing arguments first on behalf of the state, then on behalf of the respondent(s), and then on behalf of the state, if any. The order of proceedings will be tailored to the nature of the contested case. In license reinstatement hearings, for example, the respondent will generally present evidence first because the respondent is obligated to present evidence in support of the respondent's application for reinstatement pursuant to rule 641—33.40(17A,272C). In license denial hearings, the state will generally first establish the basis for the board's denial of licensure, but thereafter the applicant has the burden of establishing the conditions for licensure pursuant to rule 641—33.36(17A,105,272C).

33.24(5) Decorum. The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

33.24(6) Immunity. The presiding officer has authority to grant immunity from disciplinary action to a witness, as provided by Iowa Code section 272C.6(3), but only upon the unanimous vote of all members of the board hearing the case. The official record of the hearing shall include the reasons for granting the immunity.

33.24(7) Sequestering witnesses. The presiding officer, on the officer's own motion or upon the request of a party, may sequester witnesses.

641—33.25(17A) Evidence.

33.25(1) The presiding officer will rule on the admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

33.25(2) Stipulation of facts is encouraged.

33.25(3) Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer admits evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

33.25(4) The party seeking admission of an exhibit must provide the opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents shall be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

33.25(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection must be timely and will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

33.25(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record by briefly summarize the testimony or, with permission of the presiding officer, presenting the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

33.25(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence which may or would be inadmissible in a jury trial.

641—33.26(17A) Default.

33.26(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

33.26(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

33.26(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 33.30(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

33.26(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

33.26(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown, with burden of proof as to good cause on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

33.26(6) "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

33.26(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 641—33.29(17A).

33.26(8) If a motion to vacate is granted and no interlocutory appeal has been taken, the presiding officer will issue another statement of charges and notice of hearing and the contested case will proceed accordingly.

33.26(9) A default decision may provide either that the default is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 641—33.33(17A).

641—33.27(17A) Ex parte communication.

33.27(1) Unless requested for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 33.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

33.27(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

33.27(3) Written, oral, or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

33.27(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 641—33.14(17A) and may be supplemented by telephone, facsimile, electronic mail, or other means of notification. When permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

33.27(5) Persons who jointly act as a presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

33.27(6) The executive officer or other persons may be present during deliberations as long as the executive officer or other person is not disqualified from participating pursuant to rule 641—33.11(17A).

33.27(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 641—33.22(17A).

33.27(8) A presiding officer who receives a prohibited ex parte communication during the contested case process must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication,

all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

33.27(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

33.27(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communications prohibitions by board personnel will be reported to the board and the board's executive officer for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

641—33.28(17A) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

641—33.29(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive officer, administrative law judge, or hearing panel. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of the hearing, whichever is first. In determining whether to do so, the board will consider:

1. The extent to which granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

641—33.30(17A,272C) Decisions.

33.30(1) Final decisions. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members constitutes a quorum. Final decisions will be served on the parties in accordance with subrule 33.14(2). Final decisions of the board, including consent agreements and consent orders, are public documents pursuant to Iowa Code chapter 22.

33.30(2) Proposed panel decisions.

a. Panel of specialists. When a panel of three specialists presides over the hearing, the panel will issue a proposed decision which will include findings of fact but will not include conclusions of law or any recommendation for or against the licensee discipline. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, will be reviewed by the board within 30 days of the date the proposed decision was issued.

b. Panel of board members. When a panel of three or more board members presides over the hearing, the panel will issue a proposed decision which will include proposed findings of fact, conclusions of law, and the order. A proposed panel decision will be reviewed by the board within 30 days of the date the proposed panel decision was issued. A proposed panel decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 33.30(2) "c."

c. Appeal of proposed panel decisions. A proposed panel decision pursuant to paragraph 33.30(2) "a" or paragraph 33.30(2) "b" may be appealed to the full board by either party by serving on the executive officer, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party. The notice of appeal shall specify the party initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief.

(1) Following receipt of a notice of appeal, the board will enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding.

(2) Oral argument will be heard by the board unless waived by both parties. The time granted each party for oral argument will be established by the board.

(3) The record on appeal will be the entire record made before the hearing panel or administrative law judge.

d. Confidentiality. At no time prior to the release of the final decision by the board shall a proposed decision be made

public or distributed to any person other than the parties.

e. Requests to present additional evidence. A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

- (1) The evidence is material; and
- (2) The evidence arose after the completion of the original hearing; or
- (3) Good cause exists for failure to present the evidence at the original hearing; and
- (4) The party has not waived the right to present additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

641—33.31(17A,272C) Client notification. Within 15 days (or such other time period specifically ordered by the board) of the licensee’s receipt of the board’s final decision, whether entered by consent or following hearing, which suspends or revokes a license or accepts a voluntary surrender of a license to resolve a disciplinary case, the licensee shall notify in writing all current clients of the fact that the license has been suspended, revoked or voluntarily surrendered. Such notice shall advise clients to obtain alternative professional services. Within 30 days of receipt of the board’s final order, the licensee shall file with the board copies of the notices sent. Compliance with this requirement is a condition for an application for reinstatement.

641—33.32(17A,272C) Application for rehearing.

33.32(1) Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

33.32(2) The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, the relief sought, whether the applicant desires reconsideration of all or part of the board decision on the existing record, and whether, on the basis of grounds enumerated in paragraph 33.30(2) “e” and rule 641—33.31(17A,272C), the applicant requests an opportunity to submit additional evidence.

33.32(3) The application shall be filed with the board within 20 days after issuance of the final decision.

33.32(4) A copy of the application shall be timely mailed by the applicant to all parties of record.

33.32(5) A request that additional evidence be considered on rehearing is governed by paragraph 33.30(2) “e.”

33.32(6) Any application for rehearing is deemed denied unless the board grants the application within 20 days after its filing.

33.32(7) Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

33.32(8) If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

641—33.33(17A) Stays of board actions.

33.33(1) Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the administrative law judge to do so. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

33.33(2) In determining whether to grant a stay, the presiding officer or board will consider the factors listed in Iowa Code section 17A.19(5) “c.”

33.33(3) A stay may be vacated by the issuing authority upon application of the board or any other party.

641—33.34(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

641—33.35(17A) Emergency adjudicative proceedings.

33.35(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

33.35(2) *Issuance of order.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the board's decision to take immediate action. The order is an open record.

b. The written emergency adjudicative order will be immediately delivered to the person who is required to comply with the order, by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the board;
- (3) Certified mail to the last address on file with the board; or
- (4) Facsimile, which may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by facsimile and has provided a facsimile number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

33.35(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

33.35(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for hearing.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon written application unless the person required to comply with the order is the party requesting the continuance.

641—33.36(17A,105,272C) License denial. If the board denies an application for a license, the board or its staff shall send written notice to the applicant by regular first-class mail identifying the factual and legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 641—33.37(17A,105,272C) shall apply.

33.36(1) An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial must request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for hearing must be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing shall specify the factual or legal errors that the applicant contends were made by the board, must identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board shall promptly issue a notice of hearing on the grounds asserted by the applicant.

33.36(2) Subject to subrule 33.10(1), the board may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as the presiding officer and render a proposed decision. A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to subrule 33.30(2).

33.36(3) License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

33.36(4) The presiding officer, after a hearing on the license denial, may grant or deny the application for licensure. If

denied, the presiding officer shall state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

33.36(5) The notice of license denial, request for hearing, notice of hearing, record at hearing, and order are open records and available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations, and other persons or entities.

33.36(6) Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19 which are applicable to judicial review of any agency's final decision in a contested case.

641—33.37(17A,105,272C) Denial of application to renew license. If the board denies a timely and sufficient application to renew a license, a notice of hearing will be issued to commence a contested case proceeding.

33.37(1) Hearings on denial of an application to renew a license will be conducted according to the procedural rules applicable to contested cases. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 33.36(2) and 33.36(4) to 33.36(6) will generally apply, although license denial hearings which are in the nature of disciplinary actions will be subject to all laws and rules applicable to such hearings.

33.37(2) Pursuant to Iowa Code section 17A.18(2), an existing license does not terminate or expire if the licensee has made timely and sufficient application for renewal until the last day for seeking judicial review of the board's final order denying the application, or a later date fixed by order of the board or the reviewing court.

33.37(3) Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application is:

- a. Received by the board in paper or electronic form, or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;
- b. Signed by the licensee if the application is submitted in paper form or certified as accurate if submitted electronically;
- c. Fully completed; and
- d. Accompanied with the required fee. The fee will be deemed unacceptable if the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

33.37(4) The administrative processing of an application to renew an existing license will not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

641—33.38(105,272C) Recovery of hearing fees and expenses. The board may assess the licensee certain fees and expenses relating to a disciplinary hearing only if the board finds that the licensee has violated a statute or rule enforced by the board. Payment shall be made directly to the board.

33.38(1) The board may assess the following costs under this rule:

- a. For conducting a disciplinary hearing, an amount not to exceed \$75.
- b. All applicable costs involved in the transcript of the hearing or other proceedings in the contested case including, but not limited to, the services of the court reporter at the hearing, transcription, duplication, and postage or delivery costs. In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the board appeal process. The board may assess the transcript cost against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7), as the board deems equitable under the circumstances.
- c. All normally accepted witness expenses and fees for a hearing or the taking of depositions, as incurred by the state of Iowa. These costs include, but are not limited to, the cost of an expert witness and the cost involved in telephone testimony. The costs for lay witnesses are guided by Iowa Code section 622.69. The cost for expert witnesses is guided by Iowa Code section 622.72. Mileage costs are not guided by Iowa Code section 625.2. The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to any witness who is subpoenaed by either party to testify at hearing. Additionally, the board may assess travel and lodging expenses for witnesses at a rate not to exceed the rate applicable to state employees on the date the expense is incurred.
- d. All normally applicable costs incurred by the state of Iowa involved in depositions including, but not limited to, the service of the court reporter who records the deposition, transcription, duplication, and postage or delivery costs. When a deposition of an expert witness is taken, the deposition cost shall include a reasonable expert witness fee. The expert witness fee shall not exceed the expert's customary hourly or daily rate, and shall include the time spent in travel to and from the deposition but exclude time spent in preparation for the deposition.

33.38(2) When imposed at the board's discretion, hearing fees (not exceeding \$75) will be assessed in the final disciplinary order. Costs and expenses assessed pursuant to this rule will be calculated and, when possible, entered into the final disciplinary

order specifying the amount to be reimbursed and the time period in which the amount assessed must be paid by the licensee.

a. When it is impractical or not possible to include in the disciplinary order the exact amount of the assessment and time period in which to pay in a timely manner, or if the expenditures occur after the disciplinary order is issued, the board, by majority vote of the members present, may assess through separate order the amount to be reimbursed and the time period in which payment is to be made by the licensee.

b. If the assessment and the time period are not included in the disciplinary order, the board will have until the end of the sixth month after the date the state of Iowa paid the expenditures to assess the licensee for such expenditures. In order for the board to rely on this provision, however, the final disciplinary order must notify the licensee that fees and expenses will be assessed once known.

33.38(3) Any party may object to the fees, costs, or expenses assessed by the board by filing a written objection within 20 days of the issuance of the final disciplinary decision, or within 10 days of any subsequent order establishing the amount of the assessment. A party's failure to timely object is deemed a failure to exhaust administrative remedies. Orders imposing fees, costs, or expenses will notify the licensee of the time frame in which objections must be filed in order to exhaust administrative remedies.

33.38(4) Fees, costs, and expenses assessed by the board pursuant to this rule are allocated to the expenditure category in which the disciplinary procedure or hearing was incurred. The fees, costs, and expenses are considered repayment of receipts as defined in Iowa Code section 8.2.

33.38(5) The failure to comply with payment of the assessed costs, fees, and expenses within the time specified by the board constitutes a violation of an order of the board, is grounds for discipline, and is considered prima facie evidence of a violation of Iowa Code section 272C.3(2)(a). However, no action may be taken against the licensee without the opportunity for hearing as provided in this chapter.

641—33.39(17A) Judicial review. Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.

641—33.40(17A,272C) Reinstatement.

33.40(1) The term "reinstatement," as used in this rule, includes both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license.

33.40(2) Any person whose license has been revoked or suspended by the board, or who voluntarily surrendered a license in a disciplinary proceeding, may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension, or order accepting the voluntary surrender, unless the order of revocation provides that the license is permanently revoked.

33.40(3) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement cannot be made until at least one year has elapsed from the date of the order or the date the board accepted the voluntary surrender of a license.

33.40(4) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the respondent's license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

33.40(5) An application for reinstatement will allege facts which, if established, are sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with rule 641—33.31(17A,272C) must also be established. The burden of proof to establish such facts is on the respondent.

33.40(6) An order of reinstatement will incorporate findings of fact and conclusions of law and be based upon the affirmative vote of no fewer than a majority of the board. This order will be published as provided for in subrule 33.30(1).

These rules are intended to implement Iowa Code chapters 17A, 105 and 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	555
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	153

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	7
IAC #:	641	Chapter/ SubChapter/ Rule(s):	34	Iowa Code Section Authorizing Rule:	105, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this chapter is to ensure the public and licensees are aware of the complaint and investigation process and understand their rights and responsibilities during this process.

This chapter sets forth information regarding complaints and investigations against licensees. It provides information regarding the process for submitting a complaint, reporting requirements for licensees, information on the investigative process, information regarding the issuance of investigatory subpoenas, peer review committees, and board appearances.

641—34.1(272C) Complaints. The intended benefit of this rule is to explain the process for filing a complaint with the board.

641—34.2(272C) Report of malpractice claims or actions or disciplinary actions. The intended benefit of this rule is to require licensees to submit a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

641—34.3(272C) Report of acts or omissions. The intended benefit of this rule is to explain a licensee’s duty to report to the board the licensee’s firsthand knowledge of acts or omissions in violation of state law or administrative rule by another licensee.

641—34.4(272C) Investigation of complaints or reports. The intended benefit of this rule is to explain the board’s process for investigating complaints or reports.

641—34.5(17A,272C) Issuance of investigatory subpoenas. The intended benefit of this rule is to explain the board’s authority and process for issuing investigatory subpoenas, and the process by which a person may challenge a subpoena.

641—34.6(272C) Peer review committees. The intended benefit of this rule is to explain the process by which a complaint may be assigned to a peer review committee for review, investigation, or report to the

board.

641—34.7(17A) Appearance. The intended benefit of this rule is to explain the process by which the board may request the appearance of a licensee before a committee of the board to discuss a pending investigation.

Is the benefit being achieved? Please provide evidence.

The benefit of this chapter is being achieved as it provides the public and licensees information to ensure that they understand their responsibilities and rights around complaints and investigations. This chapter provides the licensee with needed information about the process enabling them to make reports if necessary, and understand how to address the receipt of a subpoena for records. The investigative process permits the board to gather needed information to determine if a violation has occurred. This is the primary mechanism boards have to protect the public.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a cost to licensees in the form of licensing application and renewal fees (as described in other chapters), which in turn gives the board the ability to hire staff that investigate cases.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including complaints and investigations. The time needed to manage this provision is generally in the form of written and verbal correspondence with licensees, complainants and other pertinent parties, issuing subpoenas, gathering records, conducting interviews as needed, and authoring investigative reports. There is 1 FTE assigned to investigate complaints, with support from executive officers. Staff salaries to support the work of the board are covered by the fees authorized by Iowa Code section 105.9.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of investigations and complaints are to address allegations against licensees, enabling the board to make informed decisions regarding that licensee. Eliminating complaints and investigations would cause harm to the public allowing licensee's negative actions to go unchecked.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The realignment created by SF 514 brought over 20 boards together within DIAL, and DIAL is continuing to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within this chapter was edited to eliminate language described above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 34

PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

641—34.1(272C) Complaints.

34.1(1) Complaints can be submitted online, in writing, or verbally and should include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board.

34.1(2) A person is not civilly for filing a complaint in good faith with the board, or for cooperating with a board investigation per Iowa Code section 272C.8.

641—34.2(272C) Report of malpractice claims or actions or disciplinary actions. The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

641—34.3(272C) Report of acts or omissions. A licensee having knowledge of rules violations committed by another licensee will file a report to the. The report will include the name and contact information of the licensee and the date, time, and place of the incident.

641—34.4(272C) Investigation of complaints or reports. Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties as necessary to inform the board.

641—34.5(17A,272C) Issuance of investigatory subpoenas.

34.5(1) The board executive officer or designee may, upon the written request of a board investigator or on the executive officer's own initiative, subpoena books, papers, records, and other real evidence which are necessary for the board to decide whether to initiate a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

34.5(2) Each subpoena will contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The deadline for filing a motion to quash or modify the subpoena;
- e. The signature, address and telephone number of the board executive officer or designee;
- f. The date of issuance;
- g. A return of service.

34.5(3) A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days.

34.5(4) Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

34.5(5) A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board executive officer, either in person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

34.5(6) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the person is notified the investigation has been concluded with no formal action,

or (2) there is a final decision in the contested case.

641—34.6(272C) Peer review.

34.6(1) A complaint may be assigned to a peer reviewer for review and report to the board.

34.6(2) The board determines what complaints or other matters are referred to a peer reviewer.

34.6(3) Peer reviewers are not be liable for acts, omissions, or decisions made in connection with service made in good faith.

34.6(4) The peer reviewer shall maintain confidentiality pursuant to Iowa Code section 272C.6.

641—34.7(17A) Appearance. The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board executive officer assisting the board in the contested case proceeding.

These rules are intended to implement Iowa Code chapters 17A, 105, and 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	435
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	5
IAC #:	641	Chapter/ SubChapter/ Rule(s):	35	Iowa Code Section Authorizing Rule:	105.4(2), 272C.12, 272C.13
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—35.1(105) Definitions.
The intended benefit of this rule is to define relevant terms used in this chapter.

641—35.2(105) Reciprocity agreements.
The intended benefit is to establish that the board may enter into reciprocity agreements with other states.

641—35.3(105) Licensure by reciprocity.
The intended benefit is to set forth a checklist for applicants to follow when seeking a reciprocal license and the circumstances under which the board may deny a reciprocal license.

641—35.4(105) Licensure by verification.
The intended benefit is to set forth a checklist for applicants to follow when seeking license by verification. It also explains how the board will approach applications for applicants with prior discipline and establishes the availability of temporary licenses in certain situations.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.
The intended benefit is to set forth a checklist for applicants to follow when seeking licensure via work experience upon an applicant’s relocation from another jurisdiction that did not require a license.

Is the benefit being achieved? Please provide evidence.

641—35.1(105) Definitions
641—35.2(105) Reciprocity agreements.
641—35.3(105) Licensure by reciprocity.
641—35.4(105) Licensure by verification.
641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

Yes, the benefits of this rule (subparts listed above) are being achieved. The evidence is that the terms are defined and thus easier to understand, and the checklist enables potential applicants seeking to relocate to Iowa to become licensed in an efficient manner that balances the economic benefits to the state with the need to ensure public safety. Providing the “checklist” via this rule reduces the barriers for out-of-state applicants to begin practicing the practice of plumbing, mechanical, HVAC refrigeration, sheet metal, and hydronics as soon as possible.

What are the costs incurred by the public to comply with the rule?

641—35.1(105) Definitions – N/A

641—35.2(105) Reciprocity agreements. There are no specific financial costs for implementation or enforcement of this rule of the Board entering reciprocity agreements with other states outside of the department’s general administrative operating costs.

641—35.3(105) Licensure by reciprocity.

No costs are incurred to the public beyond those already allocated for the general administrative cost of the Board’s operation. The cost imposed to the applicant are incidental, such as application fees imposed by rule or statute.

641—35.4(105) Licensure by verification.

No costs are incurred to the public beyond those already allocated for the general administrative cost of the Board’s operation. The cost imposed to the applicant are incidental, such as application fees imposed by rule or statute.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

No costs are incurred to the public beyond those already allocated for the general administrative cost of the Board’s operation. The cost imposed to the applicant are incidental, such as application fees imposed by rule or statute.

What are the costs to the agency or any other agency to implement/enforce the rule?

641—35.1(105) Definitions

N/A

641—35.2(105) Reciprocity agreements.

There are no specific financial costs for implementation or enforcement of this rule of the Board entering reciprocity agreements with other states outside of the department’s general administrative cost to operate.

641—35.3(105) Licensure by reciprocity.

There are no specific financial costs for implementation or enforcement of this rule outside of the department’s general administrative oversight of ensuring eligibility requirements are met by developing appropriate forms and ensuring adequate personnel are available to review and respond to licensing applications.

641—35.4(105) Licensure by verification.

There are no specific financial costs for implementation or enforcement of this rule outside of the department’s general administrative oversight of ensuring eligibility requirements are met by developing appropriate forms and ensuring adequate personnel are available to review and respond to licensing applications.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

There are no specific financial costs for implementation or enforcement of this rule outside of the department’s general administrative oversight of ensuring eligibility requirements are met by developing appropriate forms and ensuring adequate personnel are available to review and respond to licensing applications.

Do the costs justify the benefits achieved? Please explain.

641—35.1(105) Definitions

641—35.2(105) Reciprocity agreements.

641—35.3(105) Licensure by reciprocity.

641—35.4(105) Licensure by verification.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

Because the costs are minimal, they justify the benefit of clarity to applicants looking to relocate to Iowa. This chapter does not impose any significant regulatory burdens. It merely clarifies the path applicants follow to obtain an Iowa license in the applicable trades under Iowa Code chapter 105. The Board does not incur many additional costs outside of the department’s general administrative cost to operate and applicants pay a fee to offset this.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

641—35.1(105) Definitions

641—35.2(105) Reciprocity agreements.

641—35.3(105) Licensure by reciprocity.

641—35.4(105) Licensure by verification.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

Iowa Code 105.21 requires the Board to adopt the rules necessary to permit nonresident applicants to become licensed in Iowa where their home state has similar licensing requirements, and the home state grants the same reciprocal rights to Iowans. This rule defines necessary terms and provides “checklists” for applicants to follow in line with the directive from the legislature. As the legislature has required that rules be written to implement this policy directive, there is no less restrictive alternative to accomplish the benefit.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

641—35.1(105) Definitions

641—35.2(105) Reciprocity agreements.

641—35.3(105) Licensure by reciprocity.

641—35.4(105) Licensure by verification.

641—35.5(105) Licensure by work experience in jurisdictions without licensure criteria.

Yes, the rules in this chapter listed above have one or more components that fall under the above-referenced categories and have been revised to remove language that is unnecessary or duplicative of statutory language. Specifically, some of the definitions have been amended to simply refer to the applicable statute. Several other rules are recommended for amendment on the basis that, as currently written, they duplicate statutory language. Restrictive language has also been removed, where possible, throughout the rule, and language was amended in some places to conform with the statutory language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 35

PLUMBING AND MECHANICAL SYSTEMS BOARD—ALTERNATIVE LICENSURE PATHWAYS

641—35.1(105) Definitions. For purposes of this chapter, the following definitions apply:

“*Board*” means the same as Iowa Code section 105.2(2).

“*Full time*” means a minimum of 1,700 hours of work in a one-year period.

“*Issuing jurisdiction*” means the same as Iowa Code section 272C.12(5).

“*Transferring jurisdiction*” means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

641—35.2(105) Reciprocity agreements.

35.2 The board may enter into licensing reciprocity agreements with other states in accordance with Iowa Code section 105.21.

641—35.3(105) Licensure by reciprocity. A nonresident of Iowa seeking a reciprocal license under Iowa Code chapter 105 applies on forms provided by the board.

35.3(1) Reciprocity criteria. The board may issue a reciprocal license if the following criteria are met:

- a. The applicant is a nonresident of Iowa;
- b. The applicant possesses a valid plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license from an issuing jurisdiction with which the board has entered into a reciprocity agreement;
- c. The applicant has paid the appropriate fee or fees set forth in 641—Chapter 28;
- d. The applicant meets the minimum qualifications for licensure set forth in rule 641—29.4(105); and
- e. The applicant agrees to comply with all provisions of Iowa law and applicable administrative rules.

35.3(2) Denial of reciprocal license. The board may refuse to issue a reciprocal license to an applicant otherwise qualified based upon a suspension, revocation, or other disciplinary action taken against the applicant by a licensing authority in this or another jurisdiction. For purposes of this subrule, a “disciplinary action” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding.

641—35.4(105) Licensure by verification. Licensure by verification is available under the following circumstances.

35.4(1) Eligibility. A person may seek licensure by verification if the criteria in Iowa Code section 272C.12(1) are satisfied.

35.4(2) Board application. The applicant submits all of the following:

- a. A completed application for licensure by verification.
- b. Payment of the appropriate fee or fees set forth in 641—Chapter 28.
- c. A verification form completed by the transferring jurisdiction and sent directly from the transferring jurisdiction to the board, verifying that the applicant’s license, certificate, or registration in that jurisdiction complies with the conditions set forth in Iowa Code section 272C.12.
- d. Proof of residency in the state of Iowa or proof of military member’s official permanent change of station. Proof of residency may include:
 - (1) A residential mortgage, lease, or rental agreement;
 - (2) A utility bill;
 - (3) A bank statement;
 - (4) A paycheck or pay stub;
 - (5) A property tax statement;
 - (6) A document issued by the federal or state government; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- e. Proof of passing the applicable Iowa licensing examination.
- f. Documentation of the applicant’s complete criminal record in accordance with 641—paragraph 29.5(4) “c,” including the applicant’s personal statement regarding whether each offense directly relates to the practice of the profession.
- g. Copies of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

35.4(3) Applicants with prior discipline. If another issuing jurisdiction has taken disciplinary action against

an applicant or if the applicant has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will proceed according to Iowa Code section 272C.12(1)(f) and (g). A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

35.4(4) *Temporary licenses.* Applicants who satisfy all conditions for a license by verification under this rule, except for passing the applicable Iowa licensing examination, may be issued a temporary license in accordance with Iowa Code section 272C.12(3)(c). If the temporary license expires, the applicant may not practice until he or she submits proof of passing the applicable Iowa licensing examination.

641—35.5(105) Licensure by work experience in jurisdictions without licensure requirements.

35.5(1) *Work experience.*

a. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be eligible for an Iowa license if the person meets the conditions set forth in Iowa Code section 272C.13 and all other licensing criteria, including passing any necessary examinations. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar to the applicable apprenticeship training that is required for individuals licensed under 641—Chapter 29.

b. If the board determines an applicant's prior work experience was not substantially similar to the scope of practice in Iowa, the applicant may submit a subsequent application for licensure by work experience if all of the following criteria are satisfied:

- (1) The applicant enrolls in an apprenticeship program approved by the United States Department of Labor;
- (2) The applicant obtains a board-issued apprentice license; and
- (3) The applicant successfully completes one year in the apprenticeship program.

35.5(2) *Necessary documentation.* An applicant seeking to substitute work experience in lieu of satisfying applicable education or training criteria bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

a. Proof of Iowa residency, which may include:

- (1) A residential mortgage, lease, or rental agreement;
- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;
- (5) A property tax statement;
- (6) A document issued by the federal or state government; or
- (7) Any other board-approved document that reliably confirms Iowa residency.

b. Proof of three or more years of full-time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar to an applicable apprenticeship program approved by the United States Department of Labor. Proof of work experience may include, but is not limited to:

- (1) A letter from the applicant's prior employer or employers documenting the applicant's dates of employment and scope of practice;
- (2) A paycheck or pay stub; or
- (3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.

c. Proof that the applicant's work experience involved a substantially similar scope of practice to the practice in Iowa, which includes:

- (1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and
- (2) Business or marketing materials detailing the services provided.

d. Proof that the other jurisdiction did not require a license to practice the profession, which may include:

- (1) Copies of applicable laws;

- (2) Materials from a website operated by a governmental entity in that jurisdiction; or
 - (3) Materials from a nationally recognized professional association applicable to the profession.
- These rules are intended to implement Iowa Code sections 105.21 and 272C.12.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	282
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	4
IAC #:	641	Chapter/ SubChapter / Rule(s):	36	Iowa Code Section Authorizing Rule:	17A.7, 105.4
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa Code section 17A.7(1) provides:

An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within sixty days after submission of a petition, the agency shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rulemaking proceedings in accordance with section 17A.4, or adopt a rule if it is not required to be filed according to the procedures of section 17A.4, subsection 1. The agency shall submit the petition and the disposition of the petition to the administrative rules review committee.

641—Chapter 36 implements Section 17A.7(1) by prescribing the form for petitions and procedures for their submission.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. Chapter 36 provides the procedures to members of the public interested in petitioning the board for the adoption, amendment, or repeal of a rule.

What are the costs incurred by the public to comply with the rule?

Any costs to the public are minimal administrative costs associated with submitting the request to the board.

What are the costs to the agency or any other agency to implement/enforce the rule?

Any costs to the board are minimal administrative costs and associated directly with receiving, reviewing, and responding to petitions for rule making prescribed by Section 17A.7(1). Chapter 36 does not create any burdensome or costly requirements.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 36 contains standard provisions that are uniform across many boards and agencies. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 2, "Petitions for Rule Making," which is substantively analogous to 641—Chapter 36.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

See above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—36.1 through 36.4.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	765
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	6
IAC #:	641	Chapter/ SubChapter/ Rule(s):	46	Iowa Code Section Authorizing Rule:	136D.7
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—46.1(136D) Purpose and scope. The intended benefit of this rule is to provide clarity as to the purpose and scope of the chapter.

641—46.2(136D) Definitions. The intended benefit of this rule is to define terms used in this chapter.

641—46.3(136D) Exemptions. The intended benefit of this rule is to explain the circumstances under which exemptions from the chapter may apply.

641—46.4(136D) Permits and fees. The intended benefit of this rule is to explain the requirements and associated fees for obtaining and maintaining a permit; and the conditions under which a permit may be denied, revoked, or terminated. Substantively, the intended benefit of the fee structure is to defray the costs of administering the program pursuant to Iowa Code chapter 136D. The fees set forth herein do so, but do not meet the administrative costs of the program.

641—46.5(136D) Construction and operation of tanning facilities. The intended benefit of this rule is to explain the minimum requirements for the construction, operation, and maintenance of tanning facilities. It sets forth the basic requirements for protection of consumers of tanning facilities and the public health, including requirements related to equipment, warning signs, tanning device timers and temperature limits, protective eyewear, sanitizing, and training operators.

641—46.6(136D) Inspections, violations and injunctions. The intended benefit of this rule is to explain the department's authority to conduct inspections and act to enforce the requirements of this chapter.

Appendix 1 (Potential Photosensitizing Agents), Appendix 2 (Sun-Reactive Skin Types Used in Clinical Practice), and Appendix 3 (Potential Negative Health Effects Related to Ultraviolet Exposure) The intended benefit of these appendices is to provide those operating tanning facilities with information that must be read and acknowledged by consumers and posted in each tanning room, pursuant to subrule 46.5(1)(c).

Is the benefit being achieved? Please provide evidence.

641—46.1(136D) Purpose and scope. Although the benefit is being achieved as the purpose and scope clearly set forth the types of facilities that fall within the parameters of 136D, it includes more description than appears to be necessary and has thus been edited for repromulgation.

641—46.2(136D) Definitions. Yes, clarity is provided through definitions.

641—46.3(136D) Exemptions. Yes, clarity is provided through specifications of types of facilities that are not subject to regulation.

641—46.4(136D) Permits and fees. The fees set forth support this program, but do not fully meet costs of implementation.

641—46.5(136D) Construction and operation of tanning facilities. Yes, this rule provides clear direction for operational standards that are basic to public health, safety, and consistent with prevailing practice.

641—46.6(136D) Inspections, violations and injunctions. Yes, this rule sets forth the department's authority to conduct inspections and take further legal action, and expounds upon the procedures that the department will use to achieve compliance and a facility's expectations and legal options for response.

What are the costs incurred by the public to comply with the rule?

641—46.1(136D) Purpose and scope. No public costs are incurred.

641—46.2(136D) Definitions. No public costs are incurred.

641—46.3(136D) Exemptions. No public costs are incurred.

641—46.4(136D) Permits and fees. Costs are incurred by those who acquire or establish a tanning facility, and include an application fee (\$5) and a renewal fee (\$5). Costs may be incurred for failure to pay annual permit fees (\$25/month), and for checks returned for insufficient funds (\$15). Costs are incurred for inspections (\$33 per tanning device, up to a maximum of \$330 per facility). Costs may be incurred for failure to pay inspection costs or failure to respond to or correct violations (\$25).

641—46.5(136D) Construction and operation of tanning facilities. Costs are incurred by those who construct, operate, or maintain a tanning facility.

641—46.6(136D) Inspections, violations and injunctions. Costs may be incurred by those who are found in violation of this chapter upon inspection.

Appendices 1, 2, and 3 No public costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to implement or enforce include the costs of personnel utilized to process permits or conduct inspections, or to contract for any such work.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs appear to justify the benefits achieved.

Iowa Code section 136D.7 directs that the department establish requirements for the operation of tanning facilities, including but not limited to, proper sanitation of tanning devices, provisions of proper equipment, the presence of knowledgeable operators during operating hours, and the use of accurate timers and temperature controls. It also establishes a right to access for tanning facility inspections and directs that if the department finds a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may take appropriate legal action or impose civil penalties.

The costs to the department associated with implementing Chapter 46 are directly related to duties prescribed to the department pursuant to Iowa Code chapters 136D and 17A. Chapter 46 does not create an inspection program of tanning programs beyond what is perceived to be minimally required to protect the public health and safety of consumers of tanning facilities and provide for infection control.

Beyond any required maintenance of the equipment, the costs to operators of tanning facilities appear to be minimal and include providing education to operators and consumers, appropriate signage, and fees to support operation of the program.

The signage requirements are clear, concise, can easily be implemented by the operators, and are in line with national standards. Training required of operators is able to be performed by an owner/manager of a tanning facility, and only the owner/manager is required to complete a certification.

With respect to fees, specifically, the fees charged in Iowa do not fully meet the costs of administering the program. Neighboring states that appear to have similar regulatory structures have similar or increased fee requirements. Wisconsin, for example, charges a \$10 annual and renewal fee and a late fee of \$35 per month. Illinois charges a \$250 initial fee and a \$250 renewal fee. Minnesota charges an annual fee of \$98 for a license, \$178 for a plan review, and \$41 for a change of ownership.

There appears to be significant variation among regulatory structures related to tanning in surrounding states. The state of Nebraska, for example, has no program to license tanning facilities, although there are several requirements related to tanning facilities. Although this is certainly a less restrictive option, Iowa Code chapter 136D precludes this type of structure in Iowa.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

As set forth above, the department believes that Chapter 46 is already the least restrictive option for implementation of Iowa Code chapter 136D. A less restrictive option could include cessation of the permit

and inspection program, but such action would require legislative action and is not permitted by Iowa Code chapter 136D.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within Chapter 46 was edited to remove language that is unnecessary or duplicative of other state or federal law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 46
MINIMUM REQUIREMENTS FOR TANNING FACILITIES

641—46.1(136D) Purpose and scope. This chapter provides for the permitting and regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, and health and country clubs. Tanning facilities that follow these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.

641—46.2(136D) Definitions. The definitions set forth in Iowa Code section 136D.2 are incorporated herein by reference.

“*Board of health*” means a county, city, or district board of health that has a 28E agreement with the department to perform inspections under this chapter.

“*Cleansing*” means to remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin.

“*Cleansing agent*” means a substance capable of producing the effect of “cleansing.” These agents shall not adversely affect the equipment or the health of the consumer and be acceptable to the department or board of health.

“*Consumer*” means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

“*Exposure position*” means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

“*Formal training*” means a course of instruction approved by the department for operators of tanning facilities.

“*Health care professional*” means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

“*Inspection*” means an official examination or observation to determine compliance with statutes, rules, orders, or other applicable conditions.

“*Manufacturer’s recommendations*” means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer’s equipment.

“*Operator*” means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.

“*Permit*” or “*permit to operate*” means a document issued by the department which authorizes a person to operate a tanning facility in Iowa.

“*Person*” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but does not include federal government agencies.

“*Ultraviolet radiation*” means electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.

641—46.3(136D) Exemptions. The department may, upon application or its own initiative, grant exemptions from these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

46.3(1) Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation.

46.3(2) Tanning devices which are limited exclusively to personal use by an individual and the individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption.

46.3(3) Phototherapy devices used by a properly trained health care professional in the treatment of disease.

641—46.4(136D) Permits and fees.

46.4(1) *Permit to operate.* No tanning facility may operate without a permit issued by the department.

46.4(2) *Application requirements for permit.* Prior to operating a tanning facility, an individual shall:

a. Apply for a permit on forms provided by the department or board of health, along with a nonrefundable application fee of \$5. A \$15 returned check fee will be charged for each check returned for insufficient funds.

b. Notify the department in writing within 30 days of any changes, additions, or deletions to the initial or renewal application as appropriate. This does not include changes involving replacement of components in tanning equipment.

46.4(3) *Expiration of permit.* Except as provided in 46.4(4) "b," each permit expires at the end of the specified day stated therein.

46.4(4) *Renewal of permit.*

a. Permits will be renewed annually upon the department's receipt of a completed renewal application and the \$5 fee.

b. If the completed renewal is submitted prior to expiration of the existing permit, the existing permit does not expire until the application has been finally determined by the department.

c. In addition to any annual fee not paid, tanning facilities incur a \$25 per month fee for failure to pay annual permit fees starting the month of expiration of the facility's permit.

46.4(5) *Transfer or termination of permit.* Permits are nontransferable and must be returned to the department or board of health upon cessation of operation or change of ownership.

46.4(6) *Denial, revocation, or termination of permit.*

a. The department may deny, suspend, or revoke a permit for any of the following reasons:

(1) Submission of false information to the department, including in a permit application;

(2) Operation of the tanning facility in a manner that causes or threatens hazard to the public health or safety;

(3) Failure to allow authorized representatives of the department or board of health to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this chapter, conditions of the permit, or an order of the department or board of health;

(4) Failure to pay fees in accordance with rule 46.4;

(5) Violation of any of the provisions of this chapter or Iowa Code chapter 136D.

b. Except in cases where public health and safety require otherwise, prior to the institution of proceedings for suspension or revocation of a permit, the department or board of health will notify the permit holder, in writing, of the facts or conduct warranting such action and provide an opportunity for the permit holder to demonstrate or achieve compliance.

c. Any person aggrieved by a decision by the department to deny, suspend, or revoke a permit may request a contested case hearing pursuant to 481—Chapter 9.

d. After suspension or revocation, a permit may be reinstated upon payment of a \$50 fee and completion of all other requirements. This fee is in addition to any other applicable fee.

46.4(7) *Inspections.*

a. Inspections will be conducted annually at the cost of the permit holder. The cost of an inspection is \$33 per tanning device, up to \$330 per facility maximum. Inspection costs are due upon receipt of notice by the facility. Facilities located within a contracted area of a board of health will be paid to the contracted board of health or its designee. Inspection costs not received within 45 days of the date of billing will be assessed a \$25 per month penalty for each month or fraction thereof that payment is delinquent.

b. A penalty fee of \$25 per facility may be assessed for:

(1) Failure to respond to a notice of violation within 30 days of the date of the inspection.

(2) Failure to correct violations cited during the inspection.

c. Inspections include, but are not limited to, reviewing proper operation and maintenance of devices, necessary records and training documentation, and operator understanding and competency.

641—46.5(136D) Construction and operation of tanning facilities. The following are minimum standards for the construction, operation, and maintenance of tanning facilities:

46.5(1) Warning signs. A tanning facility shall provide and post warning signs and statements as follows:

a. The warning sign must use minimum 0.5-inch (12.7-millimeter) letters for the statement “DANGER, ULTRAVIOLET RADIATION” and 0.25-inch (6.4-millimeter) letters for other lettering.; use red lettering against a white background; be at least 9.0 inches by 12.0 inches (22.9 centimeters × 30.5 centimeters); and have the following wording:

DANGER

ULTRAVIOLET RADIATION

— Overexposure can cause

- Eye and skin injury
- Allergic reaction

— Repeated exposure may cause

- Premature aging of the skin
- Skin cancer

— Failure to wear protective eyewear may result in

- Severe burns to eyes
- Long-term injury to eyes

— Medication or cosmetics may increase your sensitivity

b. A warning sign as set forth in 46.5(1) “*a*” will be posted in a conspicuous location readily visible to consumers entering the facility and in a conspicuous location within one meter of the tanning device readily visible to a person preparing to use the device.

c. A tanning facility shall require each consumer to read the information in Appendices 1, 2, and 3 prior to the consumer’s initial exposure and annually thereafter. The consumer must sign a statement that the information has been read and understood. The information in Appendices 1, 2, and 3 must also be posted in each tanning room.

46.5(2) Federal certification. Only tanning devices manufactured and certified under the provisions of 21 CFR section 1040.20 may be used in tanning facilities. Compliance is based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR sections 1010.2 and 1010.3. Labeling shall be in accordance with 21 CFR section 1040.20(d).

46.5(3) Tanning device timers. Each tanning device shall have a timer that complies with 21 CFR section 1040.20(c). Each tanning device must have a method of remote timing so consumers cannot control their own exposure time. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer’s maximum recommended exposure time for the consumer.

46.5(4) Temperature limits. The operator shall ensure that the facility’s interior temperature does not exceed 100 degrees F or 38 degrees C.

46.5(5) Condition of tanning devices. The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements, and include physical barriers to protect consumers from injury induced by falling against or breaking the lamps.

46.5(6) Stand-up booths. Additionally, stand-up booths shall be constructed:

a. Utilizing physical barriers (e.g., handrails) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer’s skin.

b. To withstand the stress of use and the impact of a falling person.

c. Utilizing rigid construction; with doors that open outwardly; and with handrails and nonslip floors.

46.5(7) Protective eyewear.

a. Eyewear shall not be reused by another consumer.

b. Protective eyewear shall meet the criteria of 21 CFR section 1040.20(c)(4).

c. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).

d. A tanning facility operator shall verify that a consumer has protective eyewear in accordance with this subrule and not allow a consumer to use a tanning device if that consumer does not use the protective eyewear. The operator should:

(1) Ask to see the eyewear before the consumer enters the tanning room; or

(2) Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and has to be worn.

e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear.

46.5(8) Operation.

a. A trained operator must be present when a tanning device is operated and within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the consumer must be able to summon help through use of an audible device such as an intercom or buzzer and the operator or emergency personnel must be able to reach the consumer within a reasonable amount of time after being summoned.

b. The facility's permit will be displayed pursuant to Iowa Code section 136D.6.

c. A record of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of a tanning device must be maintained.

d. Any tanning injury not requiring a physician's care and any resulting changes in tanning sessions shall be noted in the consumer's file. A written report of any tanning injury requiring a physician's care shall be provided to the department within five working days of its occurrence or operator's notice thereof. The report will include:

- (1) The name of the affected individual;
- (2) The name and location of the tanning facility involved;
- (3) The nature of the injury;
- (4) The name and address of the health care provider treating the affected individual, if any; and
- (5) Any other information considered relevant to the situation.

e. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device or with lamps or filters that are "equivalent" under 21 CFR section 1040.20, and policies applicable at the time of lamp manufacture.

f. Ultraviolet lamps and bulbs that are not otherwise defective or damaged will be replaced at such frequency or after such duration of use as is recommended by the manufacturer.

g. Contact surfaces of tanning devices shall be:

- (1) Cleansed by the operator with a cleansing agent between each use;
- (2) Covered by a nonreusable protective material during each use; or
- (3) Cleansed by the consumer after use, provided the following conditions are met:
 1. The operator instructs the consumer annually on how to properly cleanse the unit;
 2. The consumer annually signs a statement that the consumer agrees to cleanse the unit after each use;
 3. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and instructing the proper way to cleanse the unit; and
 4. The operator cleanses the tanning unit at least once a day.

h. Records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. If maintained electronically, such records must be retrievable as a printed copy.

i. The operator shall limit a consumer's exposure to the maximum exposure frequency and session duration recommended by the manufacturer.

j. When a tanning device is being used, no other person can be allowed in the tanning device area.

k. "Unlimited" tanning packages cannot be advertised or promoted unless tanning frequency limits set by the manufacturer are included therein.

46.5(9) Training of operators.

a. All operators must satisfactorily complete a training program approved by the department prior to operating a tanning device that includes:

- (1) Education on this chapter;
- (2) Procedures for correct operation of the tanning facility and tanning devices;
- (3) The determination of skin type of consumers and appropriate duration of exposure to tanning devices;
- (4) Recognition of reaction or overexposure;
- (5) Manufacturer's procedures for operation and maintenance of tanning devices;
- (6) Competency testing.

b. Owners and managers must complete formal training approved by the department. All owners and managers must satisfactorily pass a certification examination approved by the department before operating a tanning facility or training employees.

c. Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Operators will be questioned during inspections as to the level of their understanding and competency in operating the tanning device.

d. Proof of training for owner/managers and employees must be maintained in the tanning facility and available for inspection. The employee record should be the original test signed by the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge of the scoring key.

- e. Operators shall be at least 16 years of age.
- f. Training and testing will be completed every five years.

46.5(10) Promotional materials. A tanning facility shall not claim, or distribute materials claiming, that tanning devices are safe, free from risk, or that use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

46.5(11) Electronically controlled facilities. Electronically controlled facilities are facilities that rely on electronic means to monitor consumers.

a. Entry into the facility is allowed by card only. Only one individual may enter under each card. The card is specifically activated for tanning use if the facility offers other activities and tanning will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.

b. Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.

c. The consumer must sign a tanning agreement stating the number of minutes per session, that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.

d. The card will be programmed for the number of minutes the consumer is allowed to tan and may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the tanning agreement. The card will be deactivated after 30 consecutive days without consumer access such that the consumer will then reapply to access the tanning unit.

e. The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once per day when they are in use.

f. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available and must be worn.

g. An emergency call button or device that calls the operator or emergency personnel will be placed in each tanning room conveniently located within reach of the tanning bed.

h. During annual inspections, the inspector may ask any consumer about any of the above processes.

641—46.6(136D) Inspections, violations and injunctions.

46.6(1) Access. The director or an authorized agent has access to any tanning facility as authorized by Iowa Code section 136D.8.

46.6(2) Civil penalty and enforcement. The department may take legal action as provided in Iowa Code sections 136D.8(3) and 136D.9.

a. The department will take the following steps or use county ordinances or any other applicable ordinances, resolutions, rules or regulations when enforcement of these rules is necessary.

(1) Cite each section of the Iowa Code or rules violated and any civil penalty imposed.

(2) Specify the manner in which the owner or operator failed to comply.

(3) Specify the steps required for correcting the violation.

(4) Request a corrective action plan, including a time schedule for completion of the plan.

(5) Set a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the permit holder must respond with the corrective action plan and, if applicable, any reasons why the civil penalty should not be imposed or to request a contested case hearing pursuant to 481—Chapter 9.

b. The department will review the corrective action plan and approve it or require that it be modified.

These rules are intended to implement Iowa Code chapter 136D.

Appendix 1

POTENTIAL PHOTSENSITIZING AGENTS

1. Not all individuals who use or take these agents will experience a photosensitive reaction or the same degree of photosensitive reaction. An individual who experiences a reaction on one occasion will not necessarily experience it again or every time.

2. Names of agents should be considered only as examples. They do not represent all the names under which a product may be sold. A more complete list is available from the facility operator.

3. If you are using an agent in any of these classes, you should reduce UV exposure even if your particular medication is not listed.

Acne treatment (Retinoic acid, Retin-A) Psoralens (5-Methoxypsoralen, 8-Methoxypsoralen, 4,5,8-trimethyl-psoralen)
 Antibacterials (deodorant bar soaps, antiseptics, cosmetics, halogenated carbanilides, halogenated phenols, halogenated salicylanilides, bithionol, chlorhexidine, hexachlorophene)
 Antibiotics, anti-infectives (Tetracyclines)
 Anticonvulsants (carbamazepine, trimethadione, promethazine)
 Antidepressants (amitriptyline, Desipramine, Imipramine, Nortriptyline, Protriptyline), Tranquilizers, anti-emetics (Phenothiazines)
 Antidiabetics (glucose-lowering agents) (sulfonylureas, oral antidiabetics, hypoglycemics)
 Antihistamines (diphenhydramine, promethazine, triprolidine, chlorpheniramine)
 Anti-inflammatory (Piroxicam), Non-steroidal anti-inflammatory drugs (Ibuprofen, Naproxen, Piroxicam)
 Antimicrobials (griseofulvin), Sulfonamides (“Sulfa drugs,” antimicrobials, anti-infectives)
 Atropine-like drugs (anticholinergics, antiparkinsonism drugs, antispasmodics, synthetic muscle relaxants)
 Coal tar and derivatives (Denorex, Tegrin, petroleum products used for psoriasis and chronic eczema and in shampoos)
 Contraceptives, oral and estrogens (birth control pills, estrogens, progesterones)
 Dyes (used in cosmetic ingredients, acridine, anthracene, cosin (lipstick), erythrosine, fluorescein, methyl violet, methylene blue, rose bengal)
 Perfumes and toilet articles (musk ambrette, oil of bergamot, oil of cedar, oil of citron, oil of lavender, oil of lemon, oil of lime, oil of rosemary, oil of sandalwood)
 Thiazide diuretics (“water pills”)

Appendix 2

SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

SKIN TYPE	SKIN REACTIONS TO SOLAR RADIATION ^(a) EXAMPLES	EXAMPLES
I	Always burns easily and severely (painful burn). Tans little or none and peels.	People most often with fair skin, blue eyes, freckles. Unexposed skin is white.
II	Usually burns easily and severely (painful burn). Tans minimally or lightly, also peels.	People most often with fair skin; red or blonde hair; blue, hazel or even brown eyes. Unexposed skin is white.
III	Burns moderately and tans about average.	Normal average Caucasoid. Unexposed skin is white.
IV	Burns minimally, tans easily, and above average with each exposure. Exhibits IPD (immediate pigment darkening) reaction.	People with white or light brown skin, dark skin, dark brown hair, dark eyes. Unexposed skin is brown.
V	Rarely burns, tans easily and substantially. Always exhibits IPD reaction.	Unexposed skin is brown.
VI	Never burns and tans profusely; exhibits IPD reaction.	Unexposed skin is black.

(a) Based in the first 45-60 minutes (= 2-3 minimum erythema dose) exposure of the summer sun (early June) at sea level

Appendix 3

POTENTIAL NEGATIVE HEALTH EFFECTS RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening, age spots, irregular pigmentation, and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.

4. Increased risk of eye damage unless proper eyewear is worn. Iowa law requires the use of proper eyewear during tanning sessions.

TANNING SYSTEMS

1. Low-pressure tanning systems use a higher percentage of UVB rays which penetrate only the upper layer of skin and can cause burning more easily than high-pressure tanning systems. Low-pressure systems require more frequent sessions to maintain a tan. High-intensity tanning systems use more lamps and shorter tanning sessions than low-intensity tanning systems. These are still classified as low-pressure systems.

2. High-pressure tanning systems use a higher percentage of UVA rays which penetrate more deeply and can permanently damage the lower layers of skin and increase the incidences of skin cancers. High-pressure systems require fewer and less frequent sessions to maintain a tan.

3. The exposure schedule for each specific unit is shown on the labeling on the tanning unit. Iowa law requires the operator to limit the exposure of each consumer to the exposure schedule shown on the unit in which the consumer is tanning.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1054
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	71

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	13
IAC #:	641	Chapter/ SubChapter/ Rule(s):	57	Iowa Code Section Authorizing Rule:	17A.9, 272C.15
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa Code section 17A.9(1) provides that “[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency.” Section 17A.9(2) requires each agency “adopt rules that provide for the form, contents, and filing of petitions for declaratory orders, the procedural rights of persons in relation to the petitions, and the disposition of the petitions. The rules must describe the classes of circumstances in which the agency will not issue a declaratory order and must be consistent with the public interest and with the general policy of this chapter to facilitate and encourage agency issuance of reliable advice.”

641—Chapter 57 implements Section 17A.9(2) by prescribing the form, contents, and filing of petitions for declaratory orders, procedural rights of persons in relation to the petitions, the disposition of the petitions, and classes of circumstances in which declaratory order will not issue.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. Chapter 57 provides clear direction to members of the public interested in obtaining a declaratory order from the board.

What are the costs incurred by the public to comply with the rule?

Costs to the public include minimal administrative costs associated with submitting a petition requesting the order sought to the board or providing additional information to the board, if necessary, for the board to act on the petition.

What are the costs to the agency or any other agency to implement/enforce the rule?

Any costs to the board are minimal administrative costs and associated directly with receiving, reviewing, and responding to petitions for declaratory order prescribed by Section 17A.9. Chapter 57 does not create any burdensome or costly requirements.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 57 contains standard provisions that are uniform across many boards and agencies. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 3, “Petitions for Declaratory Order,” which is substantively analogous to 641—Chapter 57.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

See above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641-57.1 through 57.13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	13
Proposed word count reduction after repeal and/or re-promulgation	1905
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	31

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	17
IAC #:	641	Chapter/ SubChapter/ Rule(s):	58	Iowa Code Section Authorizing Rule:	17A.3, 17A.4
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa Code section 17A.3 directs each agency to “[a]dopt rules of practice setting forth the nature and requirements of all formal and informal procedures available to the public, including a description of all forms and instructions that are to be used by the public in dealing with the agency,” and “adopt rules, in addition to those otherwise required by this chapter, embodying appropriate standards, principles, and procedural safeguards that the agency will apply to the law it administers.” Iowa Code section 17A.4 sets forth procedural requirements for the adoption of rules.

641—Chapter 58 implements Section 17A.4. The intended benefit of Chapter 58 is to clarify the rule making process to increase public accountability of the board with respect to rule making; increase public access to governmental information; and increase public participation in the formulation of administrative rules.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. Chapter 58 provides clear direction as to the rule making process and is utilized by the board as it promulgates rules.

What are the costs incurred by the public to comply with the rule?

There are no perceived costs to the public beyond any minimal costs associated with submitting any written commentary or attending public meetings to provide feedback.

What are the costs to the agency or any other agency to implement/enforce the rule?

Any costs to the board are minimal administrative costs and associated with the rule making procedural requirements set forth in Iowa Code section 17A.4.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 58 contains standard provisions that are uniform across many boards and agencies. In light of the board’s

realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 4, “Agency Procedure for Rule Making,” which is substantively analogous to 641—Chapter 58 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

See above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—58.1 through 58.17.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	17
Proposed word count reduction after repeal and/or re-promulgation	5953
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	127

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	16
IAC #:	641	Chapter/ SubChapter/ Rule(s):	59	Iowa Code Section Authorizing Rule:	17A.3(1), 22.11(1)
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The Iowa Fair Information Practices Act at Iowa Code section 22.11(1) requires each agency to adopt rules addressing:

- a. The nature and extent of the personally identifiable information collected by the agency, the legal authority for the collection of that information, and a description of the means of storage.
- b. A description of which of its records are public records, which are confidential records, and which are partially public and partially confidential records and the legal authority for the confidentiality of the records. The description shall indicate whether the records contain personally identifiable information.
- c. The procedure for providing the public with access to public records.
- d. The procedures for allowing a person to review a government record about that person and have additions, dissents, or objections entered in that record unless the review is prohibited by statute.
- e. The procedures by which the subject of a confidential record may have a copy of that record released to a named third party.
- f. The procedures by which the agency shall notify persons supplying information requested by the agency of the use that will be made of the information, which persons outside of the agency might routinely be provided this information, which parts of the information requested are required and which are optional and the consequences of failing to provide the information requested.
- g. Whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

641—Chapter 59 implements Iowa Code section 22.11(1). The intended benefit of Chapter 58 is to facilitate broad public access to open records and sound board determinations with respect to the handling of confidential records and the implementation of the Fair Information Practices Act.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. Chapter 59 provides a clear policy of public access and provides for

uniform handling of confidential records.

What are the costs incurred by the public to comply with the rule?

The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the board may waived payment of fees when the imposition of fees is inequitable or when a waiver is in the public interest. Fees may include copying and postage costs if mailing of records is requested. Fees also may include an hourly fee for actual board expenses in searching for and/or supervising the examination and copying of requested records when the time required is in excess of one hour. That hourly fee is not in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

What are the costs to the agency or any other agency to implement/enforce the rule?

The primary costs to the board include administrative costs of staff time to search for and respond to records requests.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 59 contains standard provisions that are uniform across many boards and agencies. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 5, "Public Records and Fair Information Practices," which are substantively similar to 641—Chapter 59 and in line with a stated goal of 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, see above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—59.1 through 59.17.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	16
Proposed word count reduction after repeal and/or re-promulgation	5096
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	60

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	3
IAC #:	641	Chapter/ SubChapter/ Rule(s):	60	Iowa Code Section Authorizing Rule:	252J.8, 272D.8, 272C.4(10)
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

To clearly set forth procedures applicable to license denial, suspension, or revocation for noncompliance with child support obligations pursuant to Iowa Code section 252J.8; nonpayment of state debt pursuant to Iowa Code section 272D.8; and the prohibition of licensing action for noncompliance with student loan repayment obligations pursuant to Iowa Code section 272C.4(10).

Is the benefit being achieved? Please provide evidence.

Yes, these rules clearly set forth the applicable procedures and thus provide clarity and consistency for the general public.

What are the costs incurred by the public to comply with the rule?

Pragmatically, there are no costs to licensees associated with these rules except to the extent that there may be minimal administrative expenses associated with updating the licensing authority as to the status of any proceedings initiated by the child support recovery unit of the department of health and human services in association with Iowa Code chapter 252J or the the centralized collection unit of the department of revenue in association with Iowa Code chapter 272D.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the board would be the same as other general oversight responsibilities of the board’s licensing program. Notably, any action required to be taken by the board and thus costs incurred as a part of implementing these rules would be due directly to the requirements of Iowa Code chapters 252J and 272D and not increased by these rules.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repeal. Chapter 60 contains standard provisions that are uniform across many boards and agencies. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise its current 481—Chapter 8 to promulgate a single

chapter on this topic applicable to all divisions and boards within the Department of Inspections, Appeals and Licensing.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

See above.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, see above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—60.1 through 60.3

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	133
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	1

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 28, 2023	Total Rule Count:	3
IAC #:	641	Chapter/ SubChapter/ Rule(s):	62	Iowa Code Section Authorizing Rule:	272C.12A
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of 641 chapter 62, “Plumbing and Mechanical Systems Board—Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” is to implement Iowa Code sections 272C.4, 272C.12, and 272C.12A, which generally permit or require credit for verified military education, training, or service toward any experience or educational requirement for licensure, licensure by reciprocity for military spouses and veterans.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

The only costs incurred by the public are the costs of incurred by military applicants, spouses, or veterans who have determined that the benefit of the programs exceeds any de minimis administrative cost or burden associated with application.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no specific costs for implementation or enforcement of this rule outside of the board’s general task of receiving, reviewing, and responding to license applications.

Do the costs justify the benefits achieved? Please explain.

Although the costs do justify the benefits achieved, this chapter has been identified for repealed in favor of a single chapter on this topic applicable to all divisions and boards within the Department of Inspections, Appeals and Licensing. Doing so will better encompass the realignment of the agencies and the goals of Executive Order 10 as it will combine multiple boards’ chapters on this topic into one.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Eliminating this chapter and creating one general chapter for all divisions and boards reduces the text of the Administrative Code and is the least restrictive alternative to implementing Iowa Code chapter 272C with respect to active military applicants, their spouses, and veterans.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, this entire chapter is redundant and can be rescinded.

RULES PROPOSED FOR REPEAL (list rule number[s]):

641—62.1 through 62.3.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	114
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	August 29, 2023	Total Rule Count:	7
IAC #:	641	Chapter/ SubChapter/ Rule(s):	193	Iowa Code Section Authorizing Rule:	272C.3(1)(k)
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-281-4567

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

641—193.1(272C) Definitions. The intended benefit of this rule is to define terms used in this chapter.

641—193.2(272C) Purpose. The intended benefit of this rule is to explain the purpose of the impaired practitioner review committee and how it supports the recovery or rehabilitation of licensees being monitored.

641—193.3(272C) Composition of the committee. The intended benefit of this rule is to explain the composition of the impaired practitioner review committee. The committee is composed of at least one practitioner licensed under the same or similar professional licensing board who has successfully completed a board-approved recovery program and board-ordered probation and remained free of addiction for at least two years, one practitioner with expertise in substance abuse disorder, dependency, or addiction treatment programs, and one member of the public. The goal of this composition is to ensure the committee is well-rounded and has expertise in addiction and recovery, in addition to having members with pertinent perspectives to balance the needs of the licensee with protection to the public

641—193.4(272C) Eligibility. The intended benefit of this rule is to explain the criteria for licensee participation in the impaired practitioner recovery program as required by Iowa Code section 272C.3(1)(k). Because this program is confidential, and participation is not a matter of public record, specific eligibility criteria must be met to ensure that matters which may need to be addressed by the Board are routed appropriately.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. The intended benefit of this rule is to explain the licensee’s terms of participation in the impaired practitioner recovery program. Substantively, the goal of the terms of participation are to ensure that a licensee is safe to practice their profession through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract require a referral to the Board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee will immediately refer the matter to the board for appropriate action to protect the public.

641—193.6(272C) Limitations. The intended benefit of this rule is to explain the responsibilities of the impaired practitioner review committee and the board in establishing the terms and monitoring a participant’s compliance with the program. Substantively, the goal is to clarify that participation does not relieve the board or licensee of any duties or consequences related to violations of the standards of practice, nor does it divest the board from its authority. The committee also will refer any violations of the laws or rules governing the licensee’s practice to the board for appropriate action. Another benefit of this rule is to demonstrate to the public that the impaired practitioner committee does not condone or act as a safe haven for licensees who violate their professional responsibilities.

641—193.7(272C) Confidentiality. The intended benefit of this rule is to explain the governing confidentiality provisions required by Iowa Code sections 272C.3(1)(k) and 272C.6. All information related to participation in this program is confidential, including names of participants.

Is the benefit being achieved? Please provide evidence.

641—193.1(272C) Definitions. Yes, the benefit is being achieved.

641—193.2(272C) Purpose. Yes, the benefit is being achieved.

641—193.3(272C) Composition of the committee. Yes, the benefit is being achieved.

641—193.4(272C) Eligibility. Yes, the benefit is being achieved.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. Yes, the benefit is being achieved.

641—193.6(272C) Limitations. Yes, the benefit is being achieved.

641—193.7(272C) Confidentiality. Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

641—193.1(272C) Definitions. N/A

641—193.2(272C) Purpose. N/A

641—193.3(272C) Composition of the committee. No public costs are incurred.

641—193.4(272C) Eligibility. There are costs to the licensee. To be eligible for the program, a licensee must have a diagnosed impairment. This is often determined through a substance abuse or other type of evaluation to assess the potential impairment. Evaluations are conducted at the expense of the licensee. This rule provides needed guiderails for the program to make sure licensees admitted have the best chance for success.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. There are costs to the licensee. The terms of the contract set forth requirements the licensee must meet in order to participate in the program. This could include requirements to see a therapist, random drug screens, alcoholics anonymous meetings, etc. Requirements are based on the eligibility evaluation, as well as the unique needs of each licensee. Any contract requirements are conducted at the expense of the licensee.

641—193.6(272C) Limitations. No public costs are incurred.

641—193.7(272C) Confidentiality. No public costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

641—193.1(272C) Definitions. N/A

641—193.2(272C) Purpose. N/A

641—193.3(272C) Composition of the committee. Costs associated with committee membership are incurred in accordance with Iowa Code section 272C.3(1)(k), as members of the committee receive actual expenses for the performance of their duties and are eligible to receive per diem compensation pursuant to section 7E.6. This rule merely sets forth the qualifications for the minimum of three committee members.

641—193.4(272C) Eligibility. There are no specific financial costs for implementation or enforcement of this rule outside of the department's general administrative oversight of ensuring eligibility requirements are met.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. There are no specific financial costs for implementation or enforcement of this rule outside of the department's general administrative oversight of ensuring eligibility requirements are met..

641—193.6(272C) Limitations. N/A. These limitations are generally set forth in statute and any costs associated with exercising board authority outside of these limitations is required by statute and implemented by other administrative code chapters.

641—193.7(272C) Confidentiality. N/A

Do the costs justify the benefits achieved? Please explain.

641—193.1(272C) Definitions.

641—193.2(272C) Purpose. The availability of this program helps ensure important services remain available to lowans by ensuring that licensees can practice the profession they have invested time and money into learning while protecting the public from licensees whose struggles with substance abuse or another mental or physical disorder or disability may otherwise impair their ability to practice with

reasonable skill or safety. Any costs of this program associated with the department's general administrative oversight of it are justified through the availability of needed services to lowans and the contributions of the licensee's work and tax contributions to the overall economy.

641—193.3(272C) Composition of the committee. Yes, a minimum of a three-member committee is essential to appropriate and efficient operation of the program. The composition requirements ensure the committee is well-rounded and has expertise in addiction and recovery in addition to having members with pertinent perspectives to balance the needs of the licensee with protection to the public .

641—193.4(272C) Eligibility. Yes, an impaired practitioner committee offers an alternative to a discipline program, which is highly preferred to public discipline for licensees who struggle with a substance abuse disorder or mental or physical disorder or disability. To ensure that this program meets the intended need of supporting licensees with impairments without endangering the public, eligibility criteria are essential to ensure the program is serving its intended population.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. Yes, in order for this program to assist with the recovery and rehabilitation of licensees and protect the public, there must be required terms of participation. This ensures that there is a shared understanding of what is required to utilize this alternative to discipline pathway in a manner that provides safeguards.

641—193.6(272C) Limitations. This rule generally describes statutory requirements and does not impose costs. Yes, the costs justify the benefits.

641—193.7(272C) Confidentiality. This rule generally describes statutory requirements and does not impose costs. Yes, the costs justify the benefits.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Iowa Code section 272C.3(1)(k) requires that the board establish a licensee review committee for the purpose of evaluating and monitoring licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability. This program is an alternative to a discipline program which is highly preferred to public discipline. In order to ensure that this program is meeting the intended need of supporting licensees with impairments eligibility criteria and terms of participation in the program are essential to ensure the program is serving its intended purpose and population. This program is the least restrictive alternative to accomplish the intended benefit of Section 272C.3(1)(k).

The availability of an impaired practitioner committee, generally, helps ensure important services remain available to lowans by enabling licensees to practice profession they have invested time and money into learning while protecting the public from licensees whose struggles with substance abuse or another mental or physical disorder or disability may otherwise impair their ability to practice with reasonable skill and safety. Any costs of this program associated with the department's general administrative oversight of it are justified by the increased availability of needed services to lowans and the contributions of the licensee's work and tax contributions to the overall economy.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, the following rules within chapter 193 have a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

641—193.1(272C) Definitions.

641—193.2(272C) Purpose.

641—193.3(272C) Composition of the committee.

641—193.4(272C) Eligibility.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program.

641—193.6(272C) Limitations.

641—193.7(272C) Confidentiality.

RULES PROPOSED FOR REPEAL (list rule number[s]):

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 193
IMPAIRED PRACTITIONER REVIEW COMMITTEE

641—193.1(272C) Definitions. For the purpose of these rules, the following definitions apply:

“*Committee*” means the impaired practitioner review committee as established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of substance abuse disorder, dependency, or addiction or any mental or physical disorder or disability.

“*Licensing board*” or “*board*” means “licensing board” or “board” as defined in Iowa Code section 272C.1.

“*Practitioner*” means a person licensed under Iowa Code chapter 105, 147, 148C, 149, 152B, 152C, 152D, 154A, 154E, or 155.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

641—193.2(272C) Purpose. The impaired practitioner review committee evaluates, assists, monitors and, as necessary, makes reports to the licensing board on the recovery or rehabilitation of practitioners who self-report impairments. These rules do not

apply to an impaired practitioner review committee governed by other administrative rule or statute.

641—193.3(272C) Composition of the committee. The chairperson of the board shall appoint the members of the committee. The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring. The membership of the committee includes, but is not limited to:

193.3(1) One practitioner, licensed under the same board or similar professional licensing board who has successfully completed a board-approved recovery program and board-ordered probation for substance abuse disorder, dependency, or addiction and who has remained free of addiction for a period of no less than two years.

193.3(2) One practitioner with expertise in substance abuse disorder, dependency, or addiction treatment programs.

193.3(3) One public member of the board.

641—193.4(272C) Eligibility. To be eligible for participation in the impaired practitioner recovery program, a licensee must meet all of the following criteria:

193.4(1) The licensee self-reports an impairment or suspected impairment directly to the office of the board.

193.4(2) The licensee has not engaged in the unlawful diversion or distribution of controlled substances or illegal substances.

193.4(3) At the time of the self-report, the licensee is not already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession.

193.4(4) The licensee has not caused harm or injury to a client.

193.4(5) There is currently no board investigation of the licensee that, as determined by the committee, concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care.

193.4(6) The licensee has not been subject to a civil or criminal sanction or ordered to make reparations or remuneration by a government or regulatory authority for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the licensee's profession.

193.4(7) The licensee has provided truthful information and fully cooperated with the board or committee.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. A licensee shall agree to comply with the terms for participation in the impaired practitioner recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

193.5(1) Noncompliance. Failure to comply with the provisions of the contract will result in the committee immediately referring the matter to the board for possible disciplinary action.

193.5(2) Practice limitations. The committee may impose limitations on the licensee's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill.

a. As a condition of participating in the program, a licensee must agree to limited practice in accordance with the terms specified in the contract.

b. In the event that the licensee refuses to agree to or comply with the limitations established in the contract, the committee will refer the licensee to the board for appropriate action.

641—193.6(272C) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program. As set forth in Iowa Code section 272C.3(1) "k", participation in the program does not relieve the board of any duties or divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action.

641—193.7(272C) Confidentiality. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Participation in the impaired practitioner program and information in the possession of the board or the committee about licensees in the program will not be disclosed to the public.

These rules are intended to implement Iowa Code chapter 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	36
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	17

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

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Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	DIAL	Date:	August 16, 2023	Total Rule Count:	16
IAC #:	641	Chapter/ SubChapter/ Rule(s):	202	Iowa Code Section Authorizing Rule:	135.61 - .83
Contact Name:	Becky Swift	Email:	Rebecca.swift@dia.iowa.gov	Phone:	515-218-4969

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa Code currently mandates the existence of the State Health Facilities Council (Council) and the Certificate of Need (CON) process and these administrative rules. The statutory goal is to protect access to affordable healthcare options, especially in rural areas and for medically underserved populations. Institutional Health facilities, including, but not limited to, hospitals, health care facilities, birthing centers, and ambulatory surgery centers, must acquire a CON prior to offering services.

This chapter establishes the Certificate of CON process when adding beds, building a new facility or purchasing certain equipment. It provides an overview of each step in the process and information about the role of the State Health Facilities Council and its duties. This chapter also publicly illustrates the process and criteria that will be used by the Council in determining whether or not to grant a CON to an applicant.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved, as each of the processes and provisions intended to provide a benefit are illustrated within the rulemaking. In SFY2023, the Council heard 16 new project applications; 13 were approved, two were denied, and one vote was tied.

What are the costs incurred by the public to comply with the rule?

While applicants for a CON pay a fee to apply, there are no direct costs to the general public to comply with any of the rules in this Chapter. Note there may be indirect costs to patients of these health facilities. Fees collected are deposited into the General Fund. Applications for Intermediate Care Facilities for the Intellectually Disabled or Persons with Mentally Illness are exempt from paying the application fee.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is one FTE associated with the Certificate of Need program in addition to administrative support and the Office of the Attorney General. The program manager implements all aspects of the program and provides support to the State Health Facilities Council.

Do the costs justify the benefits achieved? Please explain.

Based on other options available in other states, no. However, based on the current statute, the rules, in order to operationalize the CON program as directed in statute, the application fees support the staffing needs. Staff responsibilities include correspondence with applicants, stakeholders, and the public, as well as board support.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

As provided below, neighboring states Kansas and South Dakota offer less restrictive statutory means by not requiring Certificate of Need. However, due to the fact the statute clearly mandates this rule chapter – the current rules accurately enforce the current statute.

641 IAC 202 expands upon the language in Code to assist applicants and the public in understanding and implementing the CON process.

The rules provide consistency related to the submission of an application for a Certificate of Need.

Applicants for a CON pay a fee of three tenths of one percent of their estimated total project costs with a minimum fee of \$600 and a maximum fee of \$21,000. In comparing Iowa to nearby states, Nebraska has a \$1,000 fee; Illinois has a \$2,500 filing fee; Missouri's fee is a minimum of \$1,000 or one tenth of one percent of the total project cost, whichever is greater; and Wisconsin, while having a variation of the certificate of need program, has an application fee equal to 0.37 percent of the estimated project cost, but not less than \$1,850 and not more than \$37,000. Minnesota has a variation of the certificate of need program and no information on fees was found. Neither Kansas nor South Dakota have a certificate of need program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

This chapter contains some language that is duplicative or inconsistent. Listed below is a summary of changes to streamline and add clarity to the language. These proposed changes come after several points of feedback from stakeholders

202.1 Organized outpatient health facility definition - unnecessary

202.2

202.2(2) duplicative - Provided in Code - 135.65

202.4

202.4(3) duplicative - Provided in Code - 135.66

202.4(4) duplicative - Provided in Code - 135.66

202.4(5) duplicative - Provided in Code - 135.66

202.5

202.5(5) inconsistent with the rest of 202.5

202.16 obsolete

RULES PROPOSED FOR REPEAL (list rule number[s]):

202.1 – Organized outpatient health facility definition

202.2(2)

202.4(3)

202.4(4)

202.4(5)

202.5(5)

202.16

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

Chapter 202
Certificate of Need Program

641—202.1(135) Definitions. For purposes of this chapter, the following definitions apply:

“Acute care category of bed usage,” as the term applies in Iowa Code section 135.63(2) *“k,”* is the same as the acute care categories listed in the state survey section of the American Hospital Association Annual Survey of Hospitals.

“Any expenditure in excess of five hundred thousand dollars,” as defined in Iowa Code section 135.61(18) *“e,”* means new capital expenditures necessary to operate the service for a year.

“Any mobile health service with a value in excess of one million five hundred thousand dollars,” as defined in Iowa Code section 135.61(18) *“l,”* means the value of all equipment used to provide the service, including the trailer. The party providing the equipment is the applicant regardless of the location of that party.

“Appropriate geographic service area,” as the term applies to defining affected persons in Iowa Code section 135.61(1) *“c,”* is defined as follows:

1. For applications regarding hospitals, hospitals located in the same county and in Iowa counties contiguous to the county wherein the applicant hospital’s proposed project will be located.

2. For applications regarding health care facilities, other health care facilities located in the same county and in Iowa counties contiguous to the county wherein the applicant’s proposed health care facility will be located.

3. For applications sponsored by other than the hospitals or health care facilities specified in paragraphs “1” and “2,” those providers within the same county who offer similar service or might logically be viewed as potential providers of such service.

“Bed capacity” is defined as follows:

1. For hospitals, bed capacity is defined as the total facility licensed beds as reported on the state survey section of the American Hospital Association Annual Survey of Hospitals.

2. For health care facilities, bed capacity is defined as a facility’s licensed bed capacity according to the department of inspections, appeals and licensing.

“Cardiac catheterization service,” as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(1), means the initiation or expansion of this service.

“Consumers served by a new institutional health service” means those consumers residing in the service area as determined by the department.

“Long-term (acute) care hospital,” for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system hospital (LTCH-PPS) in accordance with 42 CFR Part 412.

“Open heart surgical service,” as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(2), means the initiation or expansion of this service.

“Organ transplantation service,” as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18) *“m”*(3), means the initiation or expansion of this service. Each type of organ transplant shall be considered separately.

“Permanent change in bed capacity of an institutional health facility,” includes, but is not limited to, the following:

1. A conversion of a long-term acute care hospital, a rehabilitation hospital or a psychiatric hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital.

2. A hospital which has deleted beds pursuant to Iowa Code section 135.63(2) *“g”* for the purpose of receiving designation as a critical access hospital reestablishes the deleted beds at a later time, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.

“Physical facility,” as the term applies in Iowa Code section 135.61(18) *“f,”* means a separately licensed facility.

“Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers.” The meaning of this term as used in Iowa Code section 135.63(2) *“a”* is determined by looking at factors which include, but are not limited to:

1. The type of health care service delivered;

2. The control and supervision of medical judgment in the care of and treatment of patients;

3. The control and supervision of professional assistants, including nurses, physician assistants, and technicians;

4. The ownership and maintenance of medical records of patients.

The term excludes an ambulatory surgical center as defined in Iowa Code section 135R.1.

“Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage

external beam equipment,” as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)“m”(4), means the initiation or expansion of this service.

“*Rehabilitation hospital,*” for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system hospital (IRF-PPS) in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29.

“*Relocation of an institutional health facility,*” as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)“b,” means the replacement of a facility located in one county with a facility located in another county.

“*Value in excess of one million five hundred thousand dollars,*” as used in Iowa Code section 135.61(18)“g,” “h,” “i” and “j,” means the value of the equipment including any applicable sales tax, delivery charge and installation charge. With respect to the initiation of radiation therapy services applying ionizing radiation for the treatment of malignant disease using the megavoltage external beam equipment, the term includes the cost of constructing a vault. [ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.2(135) Letter of intent.

202.2(1) Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service will electronically submit a letter of intent meeting the criteria noted in Iowa Code section 135.65(1) and containing the following:

a. The project’s estimated cost (site costs, land improvements, facility costs, movable equipment and financing costs, and any applicable sales tax for movable equipment, any applicable delivery charge for movable equipment, and any applicable installation charge for movable equipment).

202.2(2) The department will make available on the certificate of need web page all criteria and standards which are pertinent to an application.

202.2(3) A letter of intent received by the department is valid for a period of one year from the date of receipt by the department. The sponsor may renew the validity of a letter of intent by providing written notification to the department prior to the one-year expiration date. [ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.3(135) Determination of reviewability. A sponsor of a proposed project may submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

202.3(1) The request should include sufficient details of the proposed project and cite the sections of the Iowa Code that the sponsor relies upon to assert the project is not reviewable.

202.3(2) Upon receipt of a written request from the sponsor of a project, the department will determine if a proposed project requires a certificate of need under Iowa Code sections 135.61 to 135.83. The department may request additional information about the project to make the determination.

a. If it is determined that a certificate of need is required, the sponsor will be notified by the department and the request for nonreviewability will be considered the letter of intent for purposes of subrule 202.2(2).

b. If it is determined that a certificate of need is not required, the sponsor will be notified by the department and the determination of nonreviewability will be placed on the next agenda of the state health facilities council for consideration.

c. The notification to the sponsor of the results of the department’s review of the request will include specific Iowa Code citations relied upon to support the determination. [ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.4(135) Submission of application.

202.4(1) Application form.

a. A sponsor of a proposed project for a new or changed institutional health service will submit to the department an application for certificate of need by using the appropriate application form found on the certificate of need web page. All information requested in the application form will be required in the absence of a waiver by the department.

b. An original application and all attachments shall be submitted via electronic mail.

c. The department will establish and maintain electronic files on each application.

202.4(2) Application fee. The application fee specified in Iowa Code section 135.63(1), is based on the total cost of the project, including site costs, land improvements, facility costs, and movable equipment.

a. The fee for leased or donated new institutional health services is calculated in the same manner as if the new institutional health services were purchased.

(1) The leased equipment fee is based on total value of the lease, plus sales tax, delivery and installation.

(2) The lease of space includes the cost of a one-year-lease payment for the space.

(3) Financing costs are not applicable on leases or cash purchases.

b. The application fee will be refunded by the department for any application which is voluntarily withdrawn from the review process in the amounts specified in Iowa Code section 135.63(1).

c. For purposes of this subrule and Iowa Code section 135.63(1), the term “submission” means the day the application is received by the department.

641—202.5(135) Organizational procedures.

202.5(1) The presence of three members of the council shall constitute a quorum.

202.5(2) The chair and all other council members present will cast votes or abstain, as the case may be, on all council action. No proxy votes shall be allowed.

202.5(3) A vote of a majority of those present will be necessary to take action on any motion before the council. A tie vote means no action on the motion.

202.5(4) The council will, at the first meeting after July 1 of each odd-numbered year, elect a vice-chair to perform the duties of the chair in their absence, when the chair has a conflict of interest or when the chair so directs.

202.5(5) A council member will refrain from participating in an application review process if the member:

a. Has a personal bias or prejudice concerning the applicant;

b. Has acted as counsel to the applicant or a competitor of the applicant in the same or adjoining county within the past two years;

c. Has a financial interest in the outcome of the application process or any other significant personal interest that could be substantially affected by the outcome of the case;

d. Has a spouse or relative within the third degree of relationship that (1) is affiliated with or represents the applicant or a competitor of the applicant in the same or adjoining county; (2) has a known financial or significant personal interest which could be substantially affected by the outcome of the application process; or (3) is likely to testify on behalf of the applicant or an affected person at public hearing; or,

e. Has any other legally sufficient cause to refrain from participating in the application review process.

[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.6(135) Public hearing on application. Public hearings conducted pursuant to Iowa Code section 135.66(3) “*b*” are not contested cases. Judicial review pursuant to Iowa Code section 17A.19 of final agency decisions under Iowa Code section 135.69 will be treated as other agency action.

202.6(1) The council will use the following meeting format:

a. Announcement of application under review.

b. Presentation of department report.

c. Applicant presentation.

d. Affected persons’ presentation.

e. Applicant’s rebuttal.

f. Council discussion, motion and final decision.

202.6(2) The notice of an accepted application issued pursuant to Iowa Code section 135.66(2) will inform the applicant and affected persons of the deadlines for the electronic submission to the department of written statements or other materials. These deadlines will also be posted on the certificate of need web page.

a. Written submissions received by the department after the deadlines established in this notice will not be considered by the department or the council unless submitted at the public hearing solely to support oral testimony or upon a showing of good cause.

202.6(3) The applicant, affected persons, or their designated representatives will be given the opportunity to make oral presentations to the council. Other interested persons may be given the opportunity to make oral presentations to the council.

202.6(4) Oral testimony that simply duplicates material received in writing will not be heard. The applicant and affected persons will present only one witness for each issue raised unless permission is requested and granted by the chair.

202.6(5) All questions to an applicant or affected person presenting oral testimony will be directed from the council or council staff unless permission is requested and granted by the chair. Persons making oral presentations to the council are not expected to be placed under oath.

202.6(6) The council may designate technical consultants or experts to assist in its activities as defined by the council.
[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.7(135) Summary review. Pursuant to Iowa Code section 135.67, an applicant requesting a summary review will abide by the following procedures:

202.7(1) Electronically submit a written request for summary review, and a copy of the application and all attachments. The applicant is not required to submit a letter of intent pursuant to Iowa Code section 135.65 prior to submitting a written request for a summary review.

202.7(2) The eligibility of an application for summary review pursuant to Iowa Code section 135.67 does not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process.

202.7(3) Upon receipt of a written request for summary review, an application, and the fee required by Iowa Code section 135.63(1) the department will notify the applicant in writing within 15 calendar days if the application is complete and if a summary review will be granted.

202.7(4) If an application is deemed incomplete, the department will state specifically in writing what information is needed to make the application complete.

202.7(5) If the department notifies the applicant that a summary review will not be performed, this decision is binding on the applicant and the application will be entered into the formal review process on the date of written notice that such application will not be reviewed summarily.

202.7(6) A summary review of an application for a certificate of need will be completed within 60 calendar days of the acceptance of an application by the department.

202.7(7) At any time during the summary review process, an application may be withdrawn without prejudice from the process. The applicant may then submit the application for a formal 90-day review.
[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.8(135) Extension of review time.

202.8(1) A formal review of an application for a certificate of need pursuant to Iowa Code section 135.66 may be extended by the department on the basis of any of the following criteria:

- a. In order to review competing applications simultaneously;
- b. In the case of technologically innovative equipment, to obtain additional information necessary to evaluate the proposal. The department will specify in writing such additional information as necessary;
- c. At the request of the applicant;
- d. At the request of at least two members of the state health facilities council in order to allow additional time for deliberation on all evidence present. The council will specify the time of the delay and the date on which the final decision will be rendered.

202.8(2) An extension by the department made pursuant to subrule 202.8(1) will in no case be more than 60 calendar days beyond the time a decision is required under Iowa Code section 135.69 unless the applicant and department agree.

202.8(3) Where none of the provisions of 202.8(1) are applicable and where an application will be automatically denied because of the expiration of time required by Iowa Code section 135.69 for the issuance of a written decision by the council, the department will notify the applicant of the likelihood of an automatic denial and will ask the applicant to request in writing an extension of the review time. Where an extension is so requested, the application will be heard at the next regularly scheduled meeting of the council or at any time agreeable to the applicant and the department.

641—202.9(135) Rehearing of certificate of need decision.

202.9(1) The applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 135.66 may, for good cause shown, file an application for rehearing in writing with the department stating the specific grounds therefor and the relief sought, within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

202.9(2) Grounds for rehearing include, but are not limited to:

- a. New significant, relevant information which was unavailable at the date of the hearing;
- b. Significant changes in factors or circumstances relied upon by the council in reaching its decision;
- c. Demonstration that the council has materially failed to follow its adopted procedures in reaching its decision; or
- d. Such other bases as the council determines constitute good cause.

202.9(3) An application for rehearing is deemed to have been denied unless the council grants the application in writing within 20 calendar days after its filing.

202.9(4) If the application for rehearing is granted, the council may issue an order modifying the initial final order, or may set the matter for consideration at a subsequent meeting date. If public hearing is granted on the application for rehearing, notice will be provided ten calendar days prior to hearing to the person applying for rehearing, the applicant and other affected persons upon request pursuant to 202.10(135).

202.9(5) The council will issue the final decision on rehearing, stating the basis for its decision, within 30 calendar days after the application for rehearing was granted or 30 calendar days after public hearing on rehearing, whichever is later.

202.9(6) If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by Iowa Code chapter 17A. A request for rehearing is not required prior to appeal under Iowa Code section 17A.19.

641—202.10(135) Status reports to affected persons. Affected persons are entitled to status reports from the department while a formal application review is in progress pursuant to Iowa Code section 135.68. The department will maintain a log of all requests for written status reports by affected persons. Affected persons who request written status reports will submit an electronic request, identifying the specific information requested, which may include notification of the council’s final decision, any application for rehearing, or the filing of a petition for judicial review. The formal process does not preclude informal contacts with department staff for verbal status reports. Printed copies of the council’s final decision, an application for rehearing, a petition for judicial review, or any other public record will be provided upon request.

641—202.11(135) Finality. The certificate of need application process is continuous beginning with submission of a letter of intent or request for waiver of a letter of intent through issuance of a final decision by the council subject to judicial review under Iowa Code chapter 17A.

202.11(1) The following stages of the process are intermediate and subject to judicial review only to the extent they meet criteria for intermediate review under Iowa Code section 17A.19.

- a. A decision by the department pursuant to 641—202.3(135) that a proposed project does not require a certificate of need;
- b. A decision by the department to waive submission of the letter of intent and substitute summary review; and
- c. The rejection of an application by the department which fails to provide all information required under Iowa Code section 135.63, subsection 1.

202.11(2) The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

- a. A decision by the department to disallow summary review;
- b. A decision by the council that a proposed project does not require a certificate of need;
- c. A decision by the council to approve or deny an application;
- d. The council’s final ruling on an application for rehearing; and
- e. A decision by the council to revoke a certificate of need pursuant to 641—202.13(135).

[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.12(135) Project progress reports. The sponsor of an approved application will submit a progress report using the form available on the certificate of need webpage six months after approval at hearing.

202.12(2) Progress reports shall fully identify the project and indicate the current status of the project in descriptive terms. The reports should also reflect an amended project schedule if necessary.

[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.13(135) Request for extension of certificate.

202.13(1) A request by the applicant for an extension of a certificate of need should be filed with the department

using the form available on the certificate of need web page no later than 30 days prior to the expiration of the certificate of need.

202.13(2) A request for extension should fully identify the project and indicate the current status of the project in descriptive terms.

202.13(3) Any affected person has the right to submit to the department in writing, or orally at the council meeting at which the extension request is considered, information which may be relevant to the question of granting an extension.

202.13(4) When an extension has been requested, the council will approve or deny the request at a meeting of the council preceding the expiration of the certification. The certificate of need may be revoked by the council at the end of the certification period for insufficient progress in developing the project.

202.13(5) If the extension is denied, the applicant has the right to appeal under the provisions of Iowa Code section 135.70.

[ARC 1748C, IAB 12/10/14, effective 1/14/15]

641—202.14(135) Application changes after approval.

202.14(1) Once a project has been approved by the council, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in 202.14(2) may be made unless requested by the applicant and approved by the council. Requests should be made in writing and filed with the department electronically.

202.14(2) An increase in the actual cost of the project over and above that originally approved will automatically generate review by the council if the increase exceeds the originally approved amount by:

- a. Fifteen percent for projects up to \$999,999.99;
- b. Twelve percent for projects from \$1,000,000.00 to \$4,999,999.99;
- c. Eight percent for projects \$5,000,000.00 and over.

An increase in the approved cost that falls below the above percentages will be reported to the department.

202.14(3) Failure to notify and receive permission of the council to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 135.73. The council may make a recommendation to the department regarding the imposition of a sanction and the amount of the fine to be imposed.

641—202.15(135) Sanctions. Hearings to determine class I or class II violations pursuant to Iowa Code section 135.73 will be conducted in accordance with the department's procedural rules for contested cases found at 641—Chapter 173.

641—202.16(135) Reporting requirements. For the purposes of the annual reports and data compilation required in Iowa Code sections 135.75 and 135.78, the department will utilize the AHA Annual Survey of Hospitals with the state survey addendum for hospitals and the cost reports for health care facilities submitted to the Medicaid enterprise of the department of health and human services.

[ARC 1748C, IAB 12/10/14, effective 1/14/15]

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available. See attached.***

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	829
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	86

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	DIAL	Date:	August 9, 2023	Total Rule Count:	7
IAC #:	641	Chapter/ SubChapter/ Rule(s):	203	Iowa Code Section Authorizing Rule:	135.61 - .83
Contact Name:	Becky Swift	Email:	Rebecca.swift@dia.iowa.gov	Phone:	515-218-4969

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa Code currently mandates the existence of the State Health Facilities Council (Council) and the Certificate of Need (CON) process and these administrative rules. Applicants for a CON and affected parties benefit from this chapter as it provides guidance on adding cardiac catheterization and cardiovascular surgery, and radiation therapy, and on the purchase of specific pieces of medical equipment, including MRI, PET and CT. The additional benefit is to those applicants who wish to add beds to a health care facility, such as a nursing home. The chapter outlines a bed need formula and additional factors that are used by applicants to determine whether there is a need for more beds in their area. The chapter also outlines financial and economic factors that should be taken into consideration. The chapter benefits the Council when they review applications as it provides standards the addition of certain services, for equipment purchases and the addition of health care facility beds. This chapter also benefits those who might consider themselves an affected party to a specific application by keeping them informed of the standards for CON review.

This chapter also publicly illustrates some of the criteria that will be used by the Council in determining whether or not to grant a CON to an applicant.

Is the benefit being achieved? Please provide evidence.

When applicable, applicants for a CON use the factors that are outlined in 203 to justify the need for their equipment purchase, addition of services or addition of beds. Affected parties also use this information to determine if they support or oppose a specific application. Additionally, the Council uses this information in making their decision on whether or not to award a CON. In SFY2023, there were a total of 12 CON applications, out of a total of 16, for equipment or the addition of beds that were reviewed by the Council. After reviewing their applications and applying the bed need formula, two of the nursing facility applications for additional beds were denied by the Council due to their lack of demonstrating a need in their service area.

What are the costs incurred by the public to comply with the rule?

There is one FTE associated with the Certificate of Need program in addition to administrative support and the Office of the Attorney General. The program manager implements all aspects of the program and provides support to the State Health Facilities Council.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is one FTE associated with the Certificate of Need program. The program manager implements all aspects of the program and provides support to the State Health Facilities Council.

Do the costs justify the benefits achieved? Please explain.

Based on other options available in other states, no. However, based on the current statute, the rules, in order to operationalize the CON program as directed in statute, the application fees support the staffing needs. Staff responsibilities include correspondence with applicants, stakeholders, and the public, as well as board support.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

As provided below, neighboring states Kansas and South Dakota offer less restrictive statutory means by not requiring Certificate of Need. However, due to the fact the statute clearly mandates this rule chapter – the current rules accurately enforce the current statute.

The rules in this chapter outline technical and other requirements for the initiation of certain services and the purchase of specific pieces of medical equipment. They also provide the bed need formula for long-term care. These requirements provide what the CON applicant needs to determine if their project is viable and meets CON standards. It also assists the Council by providing the measures by which they should be reviewing an application and determining whether or not to grant the CON.

Applicants for a CON pay a fee of three tenths of one percent of their estimated total project costs with a minimum fee of \$600 and a maximum fee of \$21,000. In comparing Iowa to nearby states, Nebraska has a \$1,000 fee, Illinois has a \$2,500 filing fee, Missouri’s fee is a minimum of \$1,000 or one tenth of one percent of the total project cost, whichever is greater; and Wisconsin, while having a variation of the certificate of need program, has an application fee equal to 0.37 percent of the estimated project cost, but not less than \$1,850 and not more than \$37,000. Minnesota has a variation of the certificate of need program and no information on fees was found. Neither Kansas nor South Dakota have a certificate of need program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

This chapter contains some language that is outdated and unnecessary. Listed below is a summary of changes to streamline and clarify the language. These proposed changes come after multiple points of feedback from stakeholders.

203.4(2)(c)-(g) -Outdated

203.4(3)(b)(2) – Outdated

203.4(5)(d) – Outdated

203.4(6)(c) and (d) - Outdated

203.5 Long-term care – Outdated – this section will be reviewed by a work group over the next year and submit a report to the Governor and Legislature in December 2024. Therefore no changes were made during this review process.

203.8 Financial and economic feasibility - Unnecessary

203.12(3)(e) – Outdated

202.12(5)(c) – Unnecessary

202.12(6)(e) – Outdated

203.13(3)(c) – Outdated

203.13(6)(f) - Outdated

RULES PROPOSED FOR REPEAL (list rule number[s]):

203.4(2)(c)
203.4(2)(d)
203.4(2)(e)
203.4(2)(f)
203.4(2)(g)
203.4(3)(b)(2)
203.4(5)(d)
203.4(6)(c)
203.4(6)(d)
203.8
203.12(3)(e)
203.12(5)(c)
203.12(6)(e)
203.13(3)(c)
203.13(6)(f)

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

**Chapter 203
Standards for Certificate of Need Review**

641—203.1(135) Acute care bed need. Rescinded ARC 2297C, IAB 12/9/15, effective 1/13/16.

641—203.2(135) Cardiac catheterization and cardiovascular surgery standards. 203.2(1) Purpose and scope.

- a.* These standards are measures of some of those criteria found in Iowa Code sections 135.64(1) “a” to “q,” and 135.64(3). Criteria which are measured by a standard are cited in parentheses following each standard.
- b.* Certificate of need applications which are to be evaluated against these cardiac catheterization and cardiovascular surgery standards include:
- (1) Proposals to commence or expand capacity to perform cardiac catheterization.
 - (2) Proposals to add new or replace cardiovascular surgery services.
 - (3) Any other applications which relate to cardiac catheterization or cardiovascular surgery.

203.2(2) Definitions.

a. Adult cardiac catheterization laboratory—a diagnostic facility exclusively for intracardiac or coronary artery catheterization on adults.

b. Pediatric cardiac catheterization laboratory—the same as adult cardiac catheterization laboratory, except exclusively for children and infants.

c. Cardiac catheterization—

(1) Intracardiac—a diagnostic study of the heart, and pulmonary arteries, or both, in which a small catheter passes through a vein or artery in the neck, leg or arm and advances into the great vessels, the heart or the pulmonary arteries. Through this procedure one can measure pressure within the heart and in adjacent veins and arteries, collect blood samples for blood gas analysis and inject radiopaque material, visualize cardiac and vessel anatomy. The procedure permits detection of congenital and acquired heart abnormalities, the study of ventricular function, the estimation of the orifice size, the placement of pacemakers, etc. Cardiac catheterization is incomplete without cineangiography, intracardiac pressure measurements, blood gas analysis and the ability to diagnose intracardiac shunts.

(2) Coronary artery catheterization—a diagnostic study of the coronary arteries, in which a small catheter passes through an artery in the leg, neck or arm into a coronary artery orifice. Intravascular pressure measurements are taken, and angiography of the coronary arteries is performed. Catheterization and cineangiocardiology of the left ventricle are an integral part of this procedure.

d. Angiography.

The photographic recording of X-ray or radiologic images of blood vessels, in any part of the body—the heart, the head, the great vessels, the kidney, etc. In the procedure blood vessels are injected with a radiopaque chemical. Immediately following

injection, X-rays are employed to image the path of the injected chemical. These X-ray images are then photographically recorded.

Angiocardiology.

The recording of moving X-ray images (fluoroscopic images) of the heart and great vessels. After injection of radiopaque chemicals, moving X-rays of the chemical's flow are projected on a screen called a fluoroscope. Moving pictures (cineangiocardiology) or still pictures in sequence (serialography) may be recorded of the X-ray image.

e. Adult cardiovascular surgery—cardiovascular surgery exclusively for adults.

f. Pediatric cardiovascular surgery—cardiovascular surgery exclusively for infants and children.

g. Cardiovascular surgery—the services associated with and surgery performed for congenital or acquired diseases of the heart, great vessels, or pericardium, including the placement of travenous and epicardial pacemakers.

(1) Open heart surgery—cardiovascular surgery in which an incision of sufficient size is made to allow direct vision of the area. Open heart surgery requires temporary use of a heart-lung (cardiopulmonary bypass) machine, as blood flow through the heart is greatly reduced or stopped altogether.

(2) Coronary artery surgery—surgery to correct inadequate blood flow to the heart through using revascularization techniques to bypass significantly obstructed coronary artery lesions.

h. Closed heart surgery—cardiovascular surgery in which a small incision and repairs are made without direct vision of the area.

203.2(3) Availability of services.

a. Minimum utilization—cardiovascular surgery (Iowa Code sections 135.64(1) “*c*,” “*g*,” “*h*”).

(1) Adult cardiovascular surgical programs should project an annual minimum rate of over 200, or no approval will be granted. Higher case loads over 200 per annum, are encouraged.

(2) Pediatric cardiovascular surgical units should project a minimum of 100 pediatric heart operations after the first year, at least 75 of which must be open heart procedures.

(3) Combined adult/pediatric cardiovascular surgery units should project the minimum projected annual rates for both adult and pediatric surgery.

(4) Applicants should project utilization of cardiovascular surgery, catheterization and cardiac care units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project's service area.

b. Expansions—cardiovascular surgery (sections 135.64(1) “*c*,” “*d*,” “*e*,” “*g*,” “*h*”).

(1) There should be no additional adult cardiovascular surgery units initiated unless each existing unit within the project's service area is operating at a minimum of 200 open heart surgery cases per year.

(2) There should be no additional pediatric cardiovascular surgery units initiated, unless each existing unit within the project's service area is operating at 100 surgeries per year. (If one team serves more than one institution the numbers for those institutions should be combined.)

(3) If the annual utilization of the other cardiovascular surgery units within the area is below the above noted levels, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.

(4) The applicant will demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are generally within two hours surface travel time for adult services and within three for pediatric services.

c. Minimum utilization—cardiac catheterization (sections 135.64(1) “*c*,” “*d*,” “*g*,” “*h*”).

(1) Adult cardiac catheterization laboratories should be projected to operate at a minimum of 300 catheterizations per annum.

(2) Pediatric catheterization laboratory units should project a minimum of 150 catheterizations annually.

(3) Combined units should meet each of the adult and pediatric standards.

(4) Applicant should project utilization of cardiac catheterization units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project's service area.

d. Expansions—cardiac catheterizations (sections 135.64(1) “*c*,” “*d*,” “*e*,” “*g*,” “*h*”).

(1) There should be no additional adult cardiac catheterization unit opened unless the number of studies per year in each existing unit within the project's service area is greater than 300. No additional pediatric unit should be opened unless the number of studies per year in each existing unit within the project's services area is greater than 150.

- (1) If the annual utilization of the other cardiovascular surgery units within the area is below the above noted levels, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.
- (2) If the annual utilization of the other cardiovascular surgery units within the area is below the above noted levels, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.
- (3) The applicant must attempt and demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are those within two hours surface travel time for adults or three hours for pediatrics.

203.2(4) Costs.

a. Financial feasibility. (Sections 135.64(1) “f,” “i,” “p”) Cardiovascular surgery and catheterization equipment, and associated remodeling or construction should be depreciated over a period consistent with generally accepted accounting standards.

b. Cost-effectiveness. Proposed new or replacement cardiac catheterization laboratories cost per catheterization and cardiovascular surgery services estimated costs per surgery should when compared to their peers demonstrate cost-effectiveness.

203.2(5) Accessibility. (Sections 135.64(1) “c,” “d”)

a. Cardiovascular surgery units and cardiac catheterization labs should be meet the needs of the communities that the units and labs are meant to serve.

b. Cardiac catheterization and cardiovascular surgery service should be provided regardless of ability to pay, inconsideration of those programs available in the state which serve the medically indigent.

203.2(6) Quality. (Sections 135.64(1) “i,” “k”)

a. Each surgery unit and cardiac catheterization lab shall demonstrate a reasonable set of criteria that are used in selecting appropriate candidates for surgery and catheterization.

b. Staffing minimums.

(1) The open heart surgery team should minimally consist of:

1. At least two certified or board eligible cardiovascular surgeons for the first 75 to 130 pediatric open heart surgeries. If pediatric surgery is performed, one surgeon must have special training and experience in surgery for congenital cardiac defects.
2. A board certified or board eligible adult or pediatric cardiologist(s). The latter only if pediatric surgery is performed, the former only if adult surgery is performed.
3. Board certified or board eligible anesthesiologist with special training in the management of cardiovascular cases’ respiratory care.
4. Radiologist trained in the cardiovascular field.
5. Pathologist familiar with cardiac problems.
6. Specially trained in heart disease surgical nursing staff.
7. Cardiopulmonary bypass pump technicians.
8. Other ancillary staff as needed.

(2) Each applicant will document that the proposed surgery unit can be so staffed when completed and operational.

c. Equipment and facilities. The applicant seeking to provide cardiovascular surgery should demonstrate that the following support services will be available:

- (1) General X-ray diagnostic facilities and facilities for emergency X-rays on a 24-hour basis.
- (2) A cardiac catheterization laboratory or angiography lab available on a 24-hour basis.
- (3) A cardiographics laboratory, with facilities for recording the following tests: EKG, vector cardiogram, phonocardiogram, echocardiogram, and exercise stress testing.
- (4) A supporting blood bank and hematology laboratory.
- (5) A microbiology laboratory.

d. Cardiac catheterization labs serving infants and children should have biplane angiographic equipment, either cineangiographic or cut film. Pediatric cardiac catheterization labs should be supervised by board certified or board eligible pediatric cardiologists; adult cardiac catheterization labs should be supervised by a board certified or board eligible adult cardiologist.

203.2(7) Continuity. (Sections 135.64(1) “g,” “h,” “i,” “k”)

- a. The applicant should demonstrate that an attempt was made to solicit letters of support from area hospitals and physicians to indicate a community need.
- b. The applicant should provide documentation that emergency medical transport services will be available.
- c. Institutions providing cardiovascular surgery services should include mechanisms for comprehensive medical followup including adequate medical records exchange.

203.2(8) Acceptability. (Section 135.64(1)) Facilities with cardiovascular surgery and cardiac catheterization indicate a willingness to observe and respect the rights of patients

641—203.3(135) Radiation therapy standards. 203.3(1) Purpose and scope.

a. These standards provide guidelines to assist the council in applying those criteria in Iowa Code sections 135.64(1) “a” to “r” and 135.64(3). Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these radiation therapy standards include:

- (1) Proposals to commence or expand the kind or capacity of megavoltage radiation therapy services.
- (2) Proposals to replace a megavoltage radiation therapy unit.
- (3) Any other applications which relate to megavoltage radiation therapy.

203.3(2) Definitions.

“*Conjoint radiation oncology center*” or “*cancer center*” means a multi-institution, multidisciplinary network to provide radiation therapy for cancer patients. Integration of patient care management, common utilization of personnel and equipment, and a single system of records between center institutions ensures optimal care regardless of entry portal.

“*Dosimetrist*” means a staff member who calculates, verifies, and develops treatment plans for the radiation dose distributions that will be delivered to patients. The dosimetrist is an essential member of the treatment planning team and works closely with radiation oncologists and radiation physicists.

“*Megavoltage therapy*” means the use of ionizing radiation in excess of one million electron volts. Energies above one million electron volts cause considerably less skin damage, increase depth dose markedly, and result in much less scatter from the therapeutic beam. Megavoltage machines are classified as follows:

- 1. **Electron accelerator.** A machine such as a linear accelerator that uses a supply of electrons, which are accelerated into high energy beams. These electron beams are either caused to strike a target resulting in high energy X-ray production or are used themselves as the treatment beam. Electron accelerators generate over one million electron volts.
- 2. **Heavy Particle Accelerator.** A machine such as a cyclotron which produces beams of high energy particles such as protons, neutrons, pions, carbon ions, or other heavy ions with masses greater than that of an electron.
- 3. **Isotope sources (gamma ray teletherapy units).**

Cobalt 60 units—emit gamma rays of approximately 1.2 million electron volts.

“*Megavoltage therapy unit*” means a piece of megavoltage therapeutic radiologic equipment that provides megavoltage therapy.

“*New occurrence*” means a course of treatment for a new occurrence on a given patient at a given radiation therapy facility. First-time radiation therapy at a new facility is based on each round of treatment.

“*Radiation modality*” means the method of applying ionizing radiation in the treatment of patients with malignant disease using megavoltage external beam equipment.

“*Radiation oncologist*” means a physician authorized user trained in accordance with 641—subrule 41.3(5).

“*Radiation therapy facility*” or “*facility*” means the physical space which houses a megavoltage therapy unit and accompanying support equipment.

“*Radiation therapy physicist*” means an individual who works closely with radiation oncologists and is responsible for the safe and accurate delivery of radiation to patients. A radiation therapy physicist conducts quality control programs for the equipment and procedures, as well as calibrating the equipment. A radiation therapy physicist shall practice in accordance with 641—subrule 41.3(6).

“*Radiation therapy technologist*” means an individual who possesses an Iowa permit to practice as a radiation therapist in accordance with rule 641—42.7(136C).

“*Service area*” means the county in which the facility is located and any other counties from which the applicant expects to draw patients with a cancer diagnosis who need radiation therapy treatment.

“*Simulation*” means the precise mock-up of a patient treatment with an apparatus that uses planar X-rays, magnetic resonance imaging device, or computed tomography scanner, which is used in reproducing the two-dimensional or three-dimensional internal or external geometry to the patient, for use in treatment planning and delivery.

“*Superficial X-ray therapy*” means the use of a conventional X-ray machine, which generates X-rays of up to 150 kilovolts

(150 kv), to treat superficial lesions, such as skin cancer.

“Treatment” means radiation fields applied in a single patient visit fraction or delivery session. **203.3(3) Availability.**

a. *Minimum utilization.* (Sections 135.64(1) “c,” “g,” “h”)

(1) A megavoltage radiation therapy unit and cobalt units should treat at least 250 new occurrences annually within three years after initiation of the service.

(2) The expected number of new occurrences needing megavoltage radiation therapy annually in a service area should be calculated as follows:

1. Multiply the service area population times 0.00582 (5.82/1,000 population was the mean cancer incidence rate in 2017 in Iowa as filed by the Surveillance, Epidemiology, and End Results (SEER) Program).

2. Multiply this product times .5 (50 percent of all new occurrences receive radiation therapy).

(3) The expected volume of utilization sufficient to support the need for a new megavoltage therapy unit should be calculated as follows: each unit shall provide a minimum of 5,000 treatments per annum. Megavoltage treatments should be projected by multiplying the number of projected new occurrences needing megavoltage therapy times 20, which will result in no fewer than 5,000 treatments per annum.

(4) Applicants shall account for other providers of radiation therapy in the service area including, but not limited to, factors such as technological capability and quality. Applicants shall address in their application other providers and the impact on those providers in the service area and compare technological capability and quality.

(5) Applicants should provide a map of the expected service area.

(6) Institutions which form a conjoint oncology center should have at least 500 new occurrences annually.

b. *Simulator availability.* A simulator should be available within a radiation oncology department.

203.3(4) Accessibility. (Iowa Code section 135.64(1) “c,” “d”) Radiation therapy services should be provided regardless of ability to pay, in consideration of those programs available in the state which serve the medically indigent.

203.3(5) Quality. (Iowa Code section 135.64(1) “i,” “k”)

a. *Minimum staffing requirements for radiation therapy facilities:*

(1) Each facility will have the services of at least one radiation oncologist.

(2) Each facility will have the services of at least one radiation therapy physicist.

(3) Each facility will have the services of radiation therapy technologists which should be staffed at a level of two technologists per megavoltage unit.

(4) Each facility should have the services of nurses.

(5) Each facility should have the services of at least one dosimetrist.

(6) Each facility should have the services of one radiation therapist or radiation technologist competent to operate a CT simulator.

b. Each conjoint center will have at least two cancer biologists available.

c. Each conjoint center will have one radiation technologist available for each simulator.

d. The long-range plans for radiation therapy services shall be submitted to the Iowa department of public health.

e. Multidisciplinary tumor boards should be established in all institutions housing megavoltage machines.

f. A source of continuing education should exist within each conjoint center to reach participating community referral hospitals and physicians.

g. Each conjoint center should have a unified training program in radiation therapy for radiation oncologists.

h. Each radiation therapy facility should offer psychosocial counseling services and nutritional counseling.

203.3(6) Continuity. (Iowa Code section 135.64(1) “g,” “h,” “i,” “k”) The applicant should demonstrate that an attempt was made to solicit letters and establish referral agreements from area hospitals and physicians to indicate their willingness to participate in a cooperative endeavor to refer to the proposed service.

[ARC5931C, IAB 10/6/21, effective 11/10/21]

641—203.4(135) Computerized tomography standards. 203.4(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) “a” to “l.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these computerized tomography standards include:

(1) Proposals to commence or expand the capacity of computerized tomography services.

(2) Any other applications which relate to computerized tomography services.

203.4(2) Definitions.

a. Computerized tomographic (CT) scanner—a diagnostic tool which rotates about and which sends X-ray beams through the body or brain. The X-ray beams which emerge from the body or brain are absorbed by a detector. Differences in the amount of X-rays absorbed by the detector indicate differences in tissue density. As the scanner rotates it takes many images of a volume or cross-section. The images on the detector are transmitted to a computer which displays on a monitor a reconstructed cross-sectional slice or volume. Contrast media is often injected to alter absorption of the detector. If the scan is repeated, it is called enhancement. Studies of the heart, arteries and veins may be done with contrast only.

(1) Whole body scanner—one capable of imaging the entire body.

(2) Head scanner—one capable of imaging only the brain and structures adjacent to the head.

b. Enhanced scan—a scan performed on a patient who has been administered a contrast medium so that specific organs or areas of the body will be displayed more distinctly on the scan image.

c. Minimum shared-market area for a scanner (hereafter referred to as “area”)—the smallest geographic area within which any scanner installation is judged to affect the utilization rate of any other scanner is the community (as defined by the U.S. Bureau of the Census) or a Standard Metropolitan Statistical Area (where an area is so designated).

d. Emergency medical service (EMS) level II trauma service—the level of various services and staffing that qualify a facility to be designated by the emergency medical service division of the Iowa department of public health, using the facilities categorization criteria of such services that is in effect on the date of the enactment of this standard.

e. Shared service agreements—a multi-institutional arrangement for coordination or consolidation of services or sharing of support services. Among the various types of arrangements are referred services, purchased or joint contract services, multi sponsored services and regional services.

f. CT consortia—a cooperative venture in which two or more institutions form a separate entity which is created for the purpose of owning, leasing, planning for, and maintaining the use of the scanner. Each facility in the consortium maintains its autonomy for all other services.

g. Applicant—an applicant may be a facility or a consortium of facilities within an area, or a physician or group of physicians.

h. General imaging procedures—a radiological diagnostic procedure performed on an X-ray machine or similar radiological diagnostic instrument.

i. Active oncology service—full, multidisciplinary cancer care, provided by a medical team that would include: surgery, gynecology, medical oncology, radiation oncology, pathology, diagnostic radiology and nuclear medicine. The surgery specialties that might be available would include: thoracic, abdominal, genitourinary and gynecological. The active oncology staff would include those specialists with training in oncology, hematology, and pathology and who spend at least half of their time at the institution.

j. Radiotherapy service—the therapeutic application of megavoltage radiation, using a linear accelerator or cobalt unit. The availability of such service at a hospital would necessitate personnel trained in the therapeutic application of radiology.

k. Chemotherapy service—the treatment of cancer by chemical agents.

203.4(3) Determination of need.

a. Applicants who do not now have a scanner, or who have a scanner and seek a certificate for one or more additional scanners.

(1) Applicants in areas with no other scanners.

i. Applicants must have performed at least 30,000 general imaging procedures during the past calendar year or 12 months, or

ii. Demonstrate that during the past calendar year or 12 months, the applicant performed diagnostic procedures equivalent to 1500 HECTs (“Head Equivalent CT”), using the following:

100% of the number of patients referred to other facilities for CT diagnosis \times 1.75 (in the case of head scans) and 2.75 (in the case of body scans)

(2) Applicants in areas with one or more scanners.

i. An applicant must meet the requirement of need, described in 203.4(3) “a”(1), and

ii. The average level of utilization for scanners within the area was at least 3000 HECTs (plus or minus 10 percent) for the past calendar year or 12 months. The average level of utilization will be determined by adding the number of HECTs performed during the period at all area facilities divided by the number of facilities.

iii. The University of Iowa Hospitals and Clinics is specifically exempted from consideration under ii., directly above, because it has a service area that encompasses the entire state and adjoining states. The utilization statistics for the University

Hospital will therefore neither affect nor be affected by Mercy Hospital, Iowa City. Additionally, the utilization statistics for scanners at the University of Nebraska Hospitals and Clinics and St. Joseph's Hospital (both in Omaha) will not affect the need for scanners at hospitals in Council Bluffs.

b. Replacement scanners—applicants who currently have a scanner.

(1) All applicants seeking to replace a scanner with another scanner, head or body.

i. The applicant must demonstrate that the applicant's use of the applicant's current scanner was at least at the operating capacity level during the last calendar year or 12 months, or

ii. Below the operating capacity level, but above 1500 CT scan level, and the applicant must demonstrate reasons for permanently utilizing their scanner below operating capacity level and demonstrate that discontinuation of their scanner service would impair the applicant's ability to respond to the emergency needs of the area. Reasons for utilizing the scanner below the capacity should include a unique patient or procedure mix which would define the capacity level differently for this applicant.

a. **203.4(4) Costs and Financial feasibility.** (Sections 135.64(1) "f," "i," "p") CT scanners should be depreciated over a period of not less than seven years. Remodeling shall be depreciated as appropriate by generally accepted accounting principles.

b. *Cost-effectiveness.*

(1) Applicants should demonstrate for themselves and the health care system that the most cost-effective method of providing CT services has been chosen. Proposed new and replacement CT scanner's cost per CT scan should, when compared to their peers, demonstrate cost-effectiveness.

203.4(5) Accessibility. (Sections 135.64(1) "c," "d")

a. All scanners must be available to meet the needs of the communities the scanners are meant to serve.

b. Services should be provided to all patients regardless of the patient's ability to pay, taking into consideration the availability of those programs available in the state which serve the medically indigent.

c. Applicants will demonstrate a willingness to accept referrals for CT services from all area physicians.

203.4(6) Quality. (Sections 135.64(1) "i," "k")

a. Data on use and costs of the CT scanners should be submitted to the Iowa department of public health as a condition of approval. (Sections 135.64(1) "a," "h")

b. All scanners.

(1) All applicants must demonstrate that they have on their staff or will acquire on their staff a full-time diagnostic radiologist, trained in the use of the CT scanner, or other physicians with comparable training and expertise.

(2) All applicants must document that they have on their medical staff individuals who are qualified to operate a scanner and interpret and act upon the diagnostic results. Such documentation may include reference to board certification, apprenticeship, academic credentials or such other qualifications that would prompt a medical staff to accept the responsibility for offering this new service. Applicants who intend to acquire staff with the desired expertise should provide signed letters of intent from the incoming medical personnel. Applicants who intend to upgrade the specialty skills of their staff should document a plan for training their current staff in the use of CT scanners.

(3) All applicants should have a complement of other diagnostic modalities available. Applicants seeking body scanners should also have available ultrasound, and conventional X-ray services.

(4) All applicants should have the facilities for treating the conditions diagnosed by imaging with the scanner or should demonstrate referral agreements with treatment facilities, in the event that the scanner will be used as a screening device.

(5) All applicants should have on their staff or available on a consultative basis the services of a biomedical engineer or medical physicist, with special training in CT applications. These functions may also be provided by contract with the scanner manufacturer.

203.4(7) Continuity. (Sections 135.64(1) "g," "h," "i," "k")

a. The applicant should demonstrate that an attempt was made to solicit letters support from area hospitals and physicians to indicate a community need for the proposed service.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. The applicant should demonstrate an emphasis on the availability of outpatient CT procedures, and that an appropriate percentage of all CT procedures will be done on an outpatient basis.

203.4(8) Acceptability. (Section 135.64(1) "k") Providers of CT services should indicate a willingness to observe the rights of patients.

203.4(9) Rescinded effective 1/28/81.

641—203.5(135) Long-term care. 203.5(1) Purpose and scope.

a. These standards are measures of criteria found in Iowa Code sections 135.64(1) “a” to “g.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these standards include applications to:

(1) Construct, develop, offer new, modernize, replace, renovate, or relocate intermediate care or skilled nursing care beds in nursing homes or hospitals.

(2) Expand bed capacity in intermediate care or skilled nursing care facilities or designated units in hospitals.

203.5(2) Definitions.

“Intermediate care facility” (ICF) means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.

“Rural counties” means all counties not designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

“Skilled nursing facility” (SNF) means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.

“Urban counties” means those counties designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

203.5(3) Availability and need. (Iowa Code sections 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. The following formula shall be used as a means of projecting the approximate number of intermediate and skilled nursing care beds needed to serve the projected population five years into the future:

(1) Rural counties:

$[.09(65 + \text{population}) + .0015 (64 - \text{population})] \times 110\%$ equals total long-term care bed need Combined SNF and ICF bed need equals $2/3$ (total long-term care bed need) Assumed RCF bed need equals $1/3$ (total long-term care bed need).

(2) Urban counties:

$[.07(65 + \text{population}) + .0015 (64 - \text{population})] \times 110\%$ equals total long-term care bed need Combined SNF and ICF bed need equals $2/3$ (total long-term care bed need) Assumed RCF bed need equals $1/3$ (total long-term care bed need).

(3) Department of economic development population projections are adopted for use in the determination of long-term care bed need.

(4) The department of public health will calculate long-term care bed need figures annually, using population projections five years into the future.

b. For purposes of comparing “need” to “existing” beds in a given county, the following shall be considered in the calculation of “existing” beds:

(1) ICF and SNF beds licensed at freestanding facilities in the county.

(2) Additional ICF and SNF beds previously approved through certificate of need but not yet licensed.

(3) ICF and SNF beds in designated units in hospitals in the county.

c. The statistical calculation of bed need shall serve as a guideline for the health facilities council in reviewing need for the proposed long-term care beds. Other factors which may be considered by the council include, but are not limited to:

(1) The availability and utilization of other ICF and SNF services in the county, or within the applicant’s service area.

(2) The availability and utilization of other long-term care services in nearby hospitals, such as skilled care available through the swing bed program.

(3) The availability of supportive living arrangements which may or may not be licensed as residential care facilities (RCF).

(4) The availability of home health and other in-home services.

(5) The availability of other services to the elderly.

(6) The availability of ICF and SNF services in neighboring counties.

(7) Utilization by out-of-state residents of facilities in counties bordering other states, where the applicant provides evidence that in-migration of long-term care patients exceeds out-migration to the bordering state.

(8) Programs and services directed at special populations whose needs cannot otherwise be met, or whose needs cannot be met cost-effectively at other facilities.

d. In documenting need for a project, the applicant shall identify the service area and target population, including a description of the methodology used by the applicant in determining need for the requested beds and the expected sources of referrals. The applicant shall document that the number of beds requested is appropriate to address the identified need. The applicant shall also identify how the target population is currently being cared for, and what hardship is being experienced by the absence of the proposed beds.

203.5(4) Quality. (Iowa Code sections 135.64(1) “i,” “k”) The applicant shall document that the applicant has contacted the health facilities division of the department of inspections and appeals to conform with physical standards, staffing requirements, and other licensing requirements to assess the potential for provision of quality care at the facility. When necessary, the applicant shall attempt to arrange an on-site visit to the facility to determine compliance with physical requirements, and shall provide documentation of this site visit or attempts to arrange such a site visit.

203.5(5) Continuity. (Iowa Code sections 135.64(1) “g,” “h,” “k”)

a. The applicant shall document the relationship of the facility’s proposed services to other health and long-term care services in the community such as physician and hospital services, habilitation, rehabilitation, transportation or other services. The facility should be capable of providing or arranging for the provision of a continuum of long-term care services.

b. The facility should be capable of providing or arranging for the provision of a comprehensive program of coordinated patient services. The applicant shall provide evidence of contracts for services, appropriate staffing patterns and ratios, and licensure of personnel as necessary. **203.5(6) Accessibility and acceptability.** (Iowa Code sections 135.64(1) “c,” “d”)

a. Population subgroups which have traditionally been underserved, such as adolescents, the elderly, women, racial minorities, mentally ill, mentally retarded, and developmentally disabled should be considered when planning for or reviewing long-term care facilities.

b. The applicant shall document to what extent Medicaid patients will be served by the proposed beds, using past Medicaid utilization as an indicator or, in the case of a new facility, projecting anticipated Medicaid utilization.

203.5(7) Costs and financial feasibility. (Iowa Code sections 135.64(1) “e,” “f,” “i,” “p”)

a. The applicant shall identify capital and operating costs associated with the project, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. Construction costs shall be in line with construction costs of other similar projects.

c. The applicant shall provide budgets for the first three years of operation, including documentation of all assumptions used. The budget shall include anticipated sources of revenue, including the percentage of revenue from private pay, Medicaid, Medicare and other patient revenues.

d. Proposed charges per patient day should be justifiable when compared to current charges of other similarly licensed facilities in the applicant’s service area, or other similar facilities elsewhere in the state. If charges are significantly higher or lower, the applicant shall provide a description of proposed programs or services which explain the difference in charges.

641—203.6(135) Bed need formula for mentally retarded. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

641—203.7(135) End-stage renal disease standards. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

These rules are intended to implement Iowa Code section 135.72.

¹ Iowa Code section 135.64(1).

641—203.9(135) Obstetrical services and neonatal intensive care unit standards. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

641—203.10(135) Designated pediatric units standards. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

641—203.11(135) Designated inpatient substance abuse treatment unit standards. Rescinded **ARC 2297C**, IAB 12/9/15, effective 1/13/16.

641—203.12(135) Magnetic resonance imaging services standards. 203.12(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) “a” to “q.” Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of magnetic resonance imaging services.
- (2) Proposals to replace a magnetic resonance imaging unit.
- (3) Any other applications which relate to magnetic resonance imaging.

203.12(2) Definitions.

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

“CT (computed tomography) procedure” means a CT study of a single site of anatomic interest during an individual patient visit.

“Magnetic resonance imaging (MRI)” means a diagnostic modality which employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“MRI procedure” means each discrete MRI study of one patient.

“MRI unit” means the essential equipment and facility necessary to operate one MRI system.

203.12(3) Availability and need. (Iowa Code sections 135.64(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other MRI units. Applicant must document a future utilization of reasonably projected MRI procedure volume for the fiscal year period after projected installation.

b. Applicants in areas with one or more MRI units currently in operation or approved by certificate of need for operation.

(1) Applicant must meet the requirement of need described in 203.12(3) “a” and

(2) The other MRI unit(s) within the area must have been operating at a minimum of 2,000 MRI procedures annually (or 500 in three months), or proportionately more if the MRI unit runs more than one ten-hour shift.

(3) If the annual utilization of the other MRI unit(s) within the area has been below 2,000 procedures, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the 2,000 procedure level must be demonstrated.

c. Applicants seeking to replace an MRI unit.

(1) The applicant must demonstrate that the existing MRI unit has been operating at the level of at least 3,000 procedures during the most recent annual period.

(2) If the applicant’s annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

d. Applicants seeking to add an additional MRI unit.

(1) The applicant must demonstrate that the existing MRI unit(s) has been operating at the level of at least 3,500 procedures during the most recent annual period.

(2) The applicant must demonstrate that the demand significantly exceeds the 2,000 procedures annually.

(3) If the applicant’s annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

203.12(4) Quality and continuity. (Iowa Code sections 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed MRI unit should function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed MRI unit must have the following modalities on-site or through referral arrangements:

- (1) Ultrasound
- (2) Computed tomography
- (3) Angiography
- (4) Nuclear medicine
- (5) Conventional radiography

b. The proposed MRI unit must be located in a facility which has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by MRI. The following medical specialties must be available during MRI service hours on-site or by referral arrangements: neurology or neurosurgery, oncology and cardiology.

c. A proposal to provide new or expanded MRI must include satisfactory assurances that the services will be offered in a physical environment that conforms to federal standards, manufacturer’s specifications, and licensing agencies’ requirements.

d. The applicant must provide evidence that the proposed MRI equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for MRI should document that the necessary qualified staff are available to operate the proposed unit. The following minimum staff will be available to the MRI unit:

1. A board eligible or board-certified radiologist or any other board eligible or board-certified licensed physician whose exclusive responsibility for at least a two-year period prior to submission of a certificate of need request has been in the acquisition and interpretation of clinical images. This individual shall have a knowledge of MRI through training, experience, or documented postgraduate education. The individual shall also have training with a functional MRI facility.
2. Qualified engineering personnel, available to the institution during MRI service hours, with training and experience

in the operation and maintenance of the MRI equipment.

3. Diagnostic radiologic technologists or other certified technologists with expertise in computed tomography or other cross-sectional imaging methods, at a staffing level consistent with the hospital's expected MRI service volume.

4. Other appropriate physicians shall be available during MRI service hours in clinical specialties such as neurology or neurosurgery, oncology and cardiology.

f. The applicant shall demonstrate how emergencies within the MRI unit will be managed in conformity with accepted medical practice.

203.12(5) Accessibility and acceptability. (Iowa Code sections 135.64(1) "c," "d")

a. MRI facilities should have adequate scheduled hours to avoid an excessive backlog of cases and to meet the needs of the communities the scanners are meant to serve.

b. Selection of patients for clinical MRI studies must guarantee equal access to all persons regardless of insurance coverage or ability to pay.

203.12(6) Costs and financial feasibility. (Iowa Code sections 135.64(1) "e," "f," "i," "p")

a. The applicant shall identify capital and operating costs associated with the proposed MRI unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. The applicant shall provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

c. The applicant must document its projected average cost per procedure and charge per procedure for the first three years. Charges for MRI should be reasonably related to service cost, and comparable to MRI charges at other facilities in the state.

d. The applicant shall demonstrate that alternatives were considered and the proposed application is the most cost-effective and will accomplish the goals of the project.

641—203.13(135) Positron emission tomography services standards. 203.13(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code sections 135.64(1) "a" to "q." Criteria which are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications which are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of positron emission tomography services.
- (2) Proposals to replace a positron emission tomography unit.
- (3) Any other applications which relate to positron emission tomography.

203.13(2) Definitions.

"Area" means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

"CT (computed tomography)" means an imaging method in which a cross-sectional image of the structures in a body plane is reconstructed by a computer program from the X-ray absorption of beams projected through the body in the image plane.

"Cyclotron" means an apparatus for accelerating protons or neutrons to high energies by means of a constant magnet and an oscillating electric field.

"MRI (magnetic resonance imaging)" means a diagnostic modality which employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

"Radiopharmaceutical" means a radioactive pharmaceutical used for diagnostic or therapeutic purposes.

"PET procedure" means an image-scanning sequence derived from a single administration of PET, equated with a single injection of the tracer.

"Positron emission tomography (PET)" means an imaging method in which positron-emitting radionuclides, which are produced either by a cyclotron or generator, and a nuclear camera are used to create pictures of organ function rather than structure.

"SPECT (single photon emission computed tomography)" means a camera-based imaging system using the radionuclides in the routine practice of nuclear medicine.

203.13(3) Availability and need. (Iowa Code sections 135.64(1) "c," "d," "e," "g," "h") a. Applicants in areas with no other PET units.

(1) Applicants should demonstrate a reasonable potential utilization of a PET unit based on diversified inpatient and outpatient case mix thresholds including:

1. Intracranial cases
 - Primary brain tumors 50/year

- Metastasis 100/year
 - Cerebral vascular disease 200/year
 - Organic brain disease and dementia/psychiatric diagnoses (including epilepsy-seizure disorders) 500/year
 - Spinal 100/year
2. Cardiovascular cases
 - Ischemic heart disease (including acute and chronic infarction) 1200/year
 3. Neoplasms (head, neck, thorax (excluding heart), abdomen, pelvic, prostate and musculoskeletal) 1300/year.

(2) Applicants should have other diagnostic capabilities, on-site or through referral arrangements, with appropriate volumes including:

	<u>Proposed Threshold</u>
Nuclear medicine imaging services	5,600
Single photon emission computed tomography (including brain, bone, liver, Gallium and Thallium stress)	1,600
CT	8,000
MRI	2,400

(3) Applicants should demonstrate secondary and tertiary service capability, on-site or through referral arrangements, including cardiac surgery, cardiology, internal medicine, general surgery, hematology/oncology, neurology, pathology, thoracic surgery and psychiatry.

b. Applicants in areas with one or more PET units currently in operation or approved by the certificate of need program for operation.

(1) Existing PET units within the area (whether basic or enhanced) should have been operating at a minimum of 1000 PET procedures during the most recent annual period as reported to the certificate of need program according to 203.13(6) “e.”

203.13(4) Quality and continuity. (Iowa Code sections 135.64(1) “g,” “h,” “i,” “k”)

a. The proposed PET unit should function as a component of a comprehensive inpatient or outpatient diagnostic service.

The proposed PET unit should have the following modalities (and capabilities) on-site or through referral arrangements:

- (1) Computed tomography
- (2) Magnetic resonance imaging
- (3) Nuclear medicine — (cardiac, SPECT)
- (4) Conventional radiography

b. The proposed PET unit should be located in a facility which has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by PET. The following medical specialties should be available during PET service hours on-site or by referral arrangements: cardiology, neurology, neurosurgery, oncology, and psychiatry.

c. A proposal to provide new or expanded PET must include satisfactory assurances that services will be offered in a physical environment that conforms to federal standards, manufacturer’s specifications, and licensing agencies’ requirements. The following areas are to be addressed:

- (1) Quality control and assurance of radiopharmaceutical production of generator or cyclotron-produced agents;
- (2) Quality control and assurance of PET tomograph and associated instrumentation;
- (3) Radiation protection and shielding;
- (4) Radioactive emissions to the environment.

d. The applicant will provide evidence that the proposed PET equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for PET will document that the necessary qualified staff are available to operate the proposed unit. The applicants will document the PET training and experience of the staff. The following minimum staff will be available to the PET unit:

- (1) One or more nuclear medicine imaging physician(s) available to the PET unit who have been licensed by the state for

the handling of medical radionuclides and whose primary responsibility for at least a one-year period prior to submission of the certificate of need application has been in acquisition and interpretation of tomographic images. This individual shall have knowledge of PET through training, experience, or documented postgraduate education. The individual shall also have training with a functional PET facility.

(2) Qualified PET radiochemist or radiopharmacist personnel, available to the facility during PET service hours, with at least one year of training. The individual(s) will demonstrate experience in the testing of chemical, radiochemical, and radionuclidic purity of PET radiopharmaceutical syntheses.

(3) Qualified engineering and physics personnel, available to the facility during PET service hours, with training and experience in the operation and maintenance of the PET equipment.

(4) Qualified radiation safety personnel, available to the facility at all times, with training and experience in the handling of short-lived positron-emitting nuclides.

(5) Certified nuclear medicine technologists with expertise in computed tomographic nuclear medicine imaging procedures, at a staffing level consistent with the proposed center's expected PET service volume.

(6) Other appropriate personnel should be available during PET service hours which may include certified nuclear medicine technologists, computer programmers, nurses, and radiochemistry technicians.

f. The applicant will demonstrate how emergencies within the PET unit will be managed in conformity with accepted medical practice.

203.13(5) Accessibility and acceptability. (Iowa Code sections 135.64(1) "c," "d")

a. PET facilities should have adequate scheduled hours to avoid an excessive backlog of cases.

b. Selection of patients for clinical PET studies will guarantee equal access to all persons regardless of insurance coverage or ability to pay.

c. In addition to accepting patients from participating institutions, facilities performing clinical PET procedures should accept appropriate referrals from other local providers. These patients will be accommodated to the extent possible by extending the hours of service and by prioritizing patients according to standards of need and appropriateness rather than source of referral.

203.13(6) Costs and financial feasibility. (Iowa Code sections 135.64(1) "e," "f," "i," "p")

a. The applicant will identify capital and operating costs associated with the proposed PET unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. The applicant will provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

c. The applicant will document its projected average cost per procedure and charge per procedure for the first three years. Charges for PET should be reasonably related to service cost and comparable to PET charges at other facilities in the state.

d. The applicant should verify whether the service is eligible for reimbursement by public and private third-party payers.

e. The applicant should demonstrate that alternatives were considered and the proposed application is the most cost-effective and should accomplish the goals of the project.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	15
Proposed word count reduction after repeal and/or re-promulgation	2,496
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	58

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	DIAL	Date:	7/18/2023	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 4	Iowa Code Section Authorizing Rule:	Iowa Code chapters 17A, 21, 147, 252J, 272C and 272D
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rules publicly outlines administrative processes of the professional licensing boards within DIAL – Licensing Division. This includes expectations of licensees to change name and address, order duplicate certificates, provide continuing education information in an audit, and board order authority.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as board administrative processes and expectations of licensees are established within the rulemaking in accordance with statute.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.4. Licensees may incur costs related to initial and renewal licensing fees, duplicate certificates, or completing a physical, mental, substance abuse, or clinical competency examination as ordered by the board.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Yes, in order to regulate the professions as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services and/or care from licensed professionals.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were a number of opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 4.1: Removed redundant definitions that are otherwise defined in statute.
- 4.3: Removed unnecessary language that does not have to be established through Administrative Code.
- 4.4: Removed obsolete language.
- 4.8: Removed unnecessary language.
- 4.10: Removed unnecessary language.
- 4.11: Removed unnecessary language.
- 4.12: Removed unnecessary and/or redundant language.
- 4.13: Removed redundant language.
- 4.14: Removed unnecessary language.
- 4.15: Removed and updated obsolete language and practices.
- 4.16: Removed redundant language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 4.5: Rescinded entirely due to unnecessary language.
- 4.6: Rescinded entirely due to unnecessary language.
- 4.7: Rescinded entirely for redundancy with Code.
- 4.9: Rescinded entirely as language is duplicative.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

645—4.1(17A) Definitions.

“License” means a license to practice the specific practice governed by one of the boards defined in this chapter.

“Licensee” means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

645—4.2(17A) Purpose of board. The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

4.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

4.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

4.2(3) Imposing discipline on licensees as provided by statute or rule.

645—4.3(17A,147,272C) Organization of board and proceedings.

4.3(1) Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

4.3(2) Each board elects a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

4.3(3) A majority of the members of each board constitutes a quorum.

4.3(4) Board meetings are governed in accordance with Iowa Code chapter 21.

4.3 (5) Each professional licensing board has the authority to:

Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

a. Establish fees.

b. Establish committees of the board.

c. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session. The records shall be stored securely in the board office.

d. Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation.

e. Initiate and impose licensee discipline.

f. Monitor licenses that are restricted by a board order.

g. Establish and register peer reviewers.

h. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action.

i. Perform any other functions authorized by a provision of law.

645—4.4(17A) Name and Address Changes

4.4(1) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

4.4(2) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—4.5(147) Duplicate certificate.

4.5(1) A duplicate certificate is required if the current certificate is lost, stolen or destroyed. Duplicate certificates may be purchased online.

645—4.6(17A,147,272C) License denial.

4.6(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing and cite the reasons for which the application was denied.

4.6(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing by submitting a request in writing within 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing and subsequent procedures will be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—4.7(272C) Audit of continuing education. The board may select licensees for audit following license renewal.

4.7(1) If selected for audit, the licensee will provide certificates of completion of continuing education within 30 days of notice. The documents will contain the course date, title, contact hours, sponsor and licensee's name. Extension of time may be granted on an individual basis.

4.7(2) All licensees must retain continuing education certificates for two years after the renewal.

4.7(3) If the submitted certificates are incomplete or unsatisfactory, the licensee may submit make-up credit to cover the deficit. The deadline for make-up credit is 90 days from the date of the notice of deficit.

645—4.8(272C,83GA,SF2325) Automatic exemption.

- 4.8(1)** A licensee is exempt from the continuing education requirement during the license biennium when the licensee:
- Served active duty in the military service; or
 - a. Resided in another state or district having continuing education requirements; or
 - b. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

645—4.9(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption providing an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application.

4.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

4.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

4.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—4.10(147,272C) Order for physical, mental, substance abuse or clinical competency examination If the board has probable cause, a licensee may be required to submit to a physical, mental, substance abuse or clinical competency examination at the licensee's expense.

4.10(1) Content of order. A board order for a physical, mental, substance abuse or clinical competency examination shall include the following items:

- A description of the type of examination.
- a. The amount of time the licensee has to complete the examination.
- b. A statement indicating the licensee sign necessary releases for the board to communicate with the examiner of the evaluation or treatment facility.
- c. A statement that the licensee communicate with the board regarding the status of the examination.
- d. A statement that the licensee will have the examiner provide the examination results directly to the board within a specified period of time.

4.10(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an alternative examiner or treatment facility. The board in its discretion shall determine whether to grant the request.

4.10(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned to maintain the licensee's confidentiality.

4.10(4) Closed hearing. Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

4.10(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

4.10(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

4.10(7) Failure to submit. Failure of a licensee to submit to a board-ordered physical, mental, substance abuse or clinical competency examination constitutes a violation of the rules of the board and is grounds for disciplinary action.

[ARC 7586B, IAB 2/25/09, effective 4/1/09]

645—4.11(252J,272D) Noncompliance rules regarding child support and nonpayment of state debt.

4.11(1) *Child support noncompliance.* The board hereby adopts by reference 641—Chapter 192, “Child Support Noncompliance,” Iowa Administrative Code.

4.11(2) *Nonpayment of state debt.* The board hereby adopts by reference 641—Chapter 194, “Nonpayment of State Debt,” Iowa Administrative Code.

[ARC 8706B, IAB 4/21/10, effective 5/26/10; ARC 5189C, IAB 9/23/20, effective 10/28/20]

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1,304
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	55

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	DIAL	Date:	7/25/23	Total Rule Count:	20
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 5	Iowa Code Section Authorizing Rule:	Iowa Code chapter
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Establish fees for licensed professions. This rule includes the following Boards: Hearing Aid Specialist Board, Speech Pathology & Audiology Board, Nursing Home Administrator Board, Optometry Board, Sign Language Interpreters & Transliterators Board, Barbering & Cosmetology Arts Sciences Board, Physical & Occupational Therapy Board, Athletic Training Board, Mortuary Science Board, Physician Assistants Board, Chiropractic Board, Behavioral Science Board, Psychology Board, Social Work Board, Podiatry Board, Massage Therapy Board, Dietetics Board and the Respiratory Care Board.

Is the benefit being achieved? Please provide evidence.

Yes, the professional licensing fees go to the Licensing & Regulation Fund established in SF 557 to support the work of the board. Fees provide support for all functions that are within the authority of boards including licensing, investigations, continuing education, administrative support to boards including rule-making and rule-waivers, board discipline, and outreach to professional associations and other members of the public.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.5. Licensees incur costs through the licensing fees as established in this chapter which include fees related to applications for initial licensing, renewal of licenses, late fees for renewing licenses, temporary licenses (if permitted by statute), reactivation of a license, purchasing a duplicate certificate, returned check fees, disciplinary hearing fees, examination fees (if applicable) and verification of license fee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. There are currently 16.5 FTE's that support the work of the 19 boards contained in this chapter at an annual budget of roughly two million dollars. These 19 boards license and regulate over 61,000 licensees. Staff process licenses, provide administrative support to boards and the decisions they are authorized to make pursuant to Iowa Code, investigate complaints, assist with disciplinary action when needed, and monitor licensees under board order or in confidential health monitoring programs. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

In order to regulate the professions as directed in Iowa Code, staff play a critical role in issuing licenses, conducting investigations, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of the public who receive services and/or care from licensed professionals. A cost comparison of license fees to nearby states can be found below.

License Type	Initial Fee IA	Initial Fee IL	Initial Fee MN	Initial Fee MO	Initial Fee NE
Athletic Training	\$120	\$200	\$183	\$25	\$117
Barbering	\$60	\$30	\$160	\$20	\$220
Barbering Instructor	\$60	\$156	\$180	\$20	\$100
Behavior Analyst	\$120	unknown	unknown	\$150	unknown
Marital and Family Therapist	\$120	\$100	\$125	\$100	\$50
Mental Health Counselor	\$120	\$100	\$125	\$100	\$50
Chiropractic	\$270	\$500	\$250	\$200	\$144
Cosmetologist	\$60	\$30	\$155	\$146	\$95
Electrologist	\$60	\$125	unknown	unknown	\$95
Esthetician	\$60	\$30	\$155	NA	\$95
Manicurist	\$60	\$80	\$285	\$210	\$148
Nail Technician	\$60	\$30	\$155	\$30	\$50
Cosmetology Instructor	\$60	\$30	\$195	\$20	\$50
Dietician	\$120	\$100	\$150	\$50	unknown
Hearing Aid Specialists	\$156	\$200	\$750	\$250	\$165
Funeral Director	\$120	\$100	\$200	\$150	\$90
Massage Therapist	\$120	\$175	not required	\$125	\$110
Nursing Home Administrators	\$120	\$180	\$150	\$150	\$166
Optometrist	\$300	\$500	\$160	\$225	\$166
Physician Assistant	\$120	\$50	\$120	\$25	\$150
Podiatrist	\$400	\$400	\$600	\$200	\$131
Orthodist, Prosthetist, Pedorthist	\$400	\$400	\$600	unknown	unknown
Psychologist	\$120	\$50	\$500	\$150	\$183
Occupational Therapist	\$120	\$25	\$185	\$30	\$120
Physical Therapist	\$120	\$100	\$60	\$25	\$133
Respiratory Care Practitioner	\$75	\$100	\$190	\$40	\$118
Sign Language Interpreter and Transliterator	\$120	\$175	unknown	\$75	\$150
Audiologist	\$120	\$90	\$544	\$25	\$140
Speech Pathologist	\$120	\$90	\$219	\$25	\$140
Social Worker Bachelor's Level	\$120	\$50	\$81	\$60	\$125
Social Worker Independent Level	\$120	unknown	\$108	unknown	unknown
Social Worker Masters Level	\$120	\$50	\$239	\$60	\$125

Average Initial Licensing Fee	IA	IL	MN	MO	NE
	\$133	\$142	\$244	\$96	\$122

NOTE: Supplemental fees (e.g. exam fees, background check fees, etc.) vary across state lines. The figures in this comparative analysis represent only the licensing fee to the extent that it could be isolated from the total cost of initial licensure.

License Type	Renewal Fee IA	Renewal Fee IL	Renewal Fee MN	Renewal Fee MO	Renewal Fee NE
Athletic Training	\$60	\$100	\$100	\$25	\$59
Barbering	\$30	\$13	\$80	\$15	\$60
Barbering Instructor	\$30	\$25	\$80	\$15	\$50
Behavior Analyst	\$60	unknown	unknown	\$75	unknown
Marital and Family Therapist	\$60	\$60	\$125	\$88	\$25
Mental Health Counselor	\$60	\$60	\$125	\$88	\$25
Chiropractic	\$60	\$167	\$200	\$63	\$72
Cosmetologist	\$30	\$25	\$38	\$15	\$59
Electrologist	\$30	\$31	unknown	unknown	unknown
Esthetician	\$30	\$25	\$33	unknown	\$59
Manicurist	\$30	\$25	\$38	\$15	unknown
Nail Technician	\$30	\$13	\$48	\$25	\$25
Cosmetology Instructor	\$30	\$25	\$48	\$15	\$25
Dietician	\$60	\$50	\$75	\$10	NA
Hearing Aid Specialists	\$30	\$100	\$750	\$200	\$83
Funeral Director	\$60	\$25	\$200	\$75	\$45
Massage Therapist	\$30	\$88	not required	\$50	\$55
Nursing Home Administrators	\$30	\$25	\$113	\$75	\$83
Optometrist	\$72	\$200	\$130	\$75	\$73
Physician Assistant	\$60	\$20	\$135	\$25	\$55
Podiatrist	\$200	\$200	\$300	\$100	\$66
Orthodist, Prosthetist, Pedorthist	\$200	\$125	\$300	unknown	unknown
Psychologist	\$85	\$40	\$250	\$150	\$92
Occupational Therapist	\$30	\$20	\$15	\$15	\$60

Physical Therapist	\$30	\$30	\$60	\$25	\$67
Respiratory Care Practitioner	\$38	\$60	\$90	\$15	\$59
Sign Language Interpreter and Transliterator	\$60	\$150	unknown	\$90	\$75
Audiologist	\$48	\$50	\$255	\$17	\$70
Speech Pathologist	\$48	\$50	\$100	\$17	\$70
Social Worker Bachelor's Level	\$36	\$30	\$41	\$29	\$63
Social Worker Independent Level	\$72	unknown	unknown	unknown	unknown
Social Worker Masters Level	\$60	\$30	\$119	\$29	\$63

Average Renewal Licensing Fee	IA	IL	MN	MO	NE
	\$56	\$62	\$143	\$51	\$59

NOTE: Renewal schedules vary across professions and across state lines. The figures in this comparative analysis represent only the licensing renewal fee to the extent that it could be isolated. Additionally, the fees have been adjusted to the cost equivalent of one year in order to account for differing renewal schedules.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

A less restrictive alternative would be to lower licensing fees or eliminate licensure for specific professions. Less restrictive forms of regulation include a registration, certification, or registry. There are typically fewer requirements to a registration, certification or registry which means operational costs, and therefore fees, can be lowered. While these are options that exist for consideration, the Boards who regulate these professions believe that Iowa’s regulatory scheme, as it exists today, is important and necessary because it provides safeguards to the public. FY24 will be the first fiscal year where professional licensing board fees are collectively pooled in the Licensing & Regulation Fund to support the cost of regulating the professions. This new model may allow for additional assessment of licensing board budgets and operational needs.

Additionally, the Boards and Commissions Review Committee is currently assessing the efficiency and effectiveness of all boards and commissions, including those in the DIAL – Licensing Division. Action items from this committee could trigger a review of fees in specific areas.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

5.7 Removed obsolete information

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 5
FEES

645—5.1(147,152D) Athletic training license fees. All fees are nonrefundable.

- 5.1(1) License fee for license to practice athletic training is \$120.
- 5.1(2) Temporary license fee for license to practice athletic training is \$120.
- 5.1(3) Biennial license renewal fee for each biennium is \$120.
- 5.1(4) Late fee for failure to renew before expiration is \$60.
- 5.1(5) Reactivation fee is \$180.
- 5.1(6) Duplicate or reissued license certificate fee is \$20.
- 5.1(7) Verification of license fee is \$20.
- 5.1(8) Returned check fee is \$25.
- 5.1(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.2(147,158) Barbering license fees. All fees are nonrefundable.

5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is \$60.

- 5.2(2) Biennial renewal fee for a barber license or barber instructor license is \$60.
- 5.2(3) Temporary permit fee is \$12.
- 5.2(4) Practical examination fee is \$75.
- 5.2(5) Demonstrator permit fee is \$45 for the first day and \$12 for each day thereafter for which the permit is valid.
- 5.2(6) Barber school license fee is \$600.
- 5.2(7) Barber school annual renewal fee is \$300.
- 5.2(8) Barbershop license fee is \$72.
- 5.2(9) Biennial renewal fee for a barbershop license is \$72.
- 5.2(10) Late fee for failure to renew before expiration is \$60.
- 5.2(11) Reactivation fee for a barber license is \$120.
- 5.2(12) Reactivation fee for a barbershop license is \$132.
- 5.2(13) Reactivation fee for a barber school license is \$360.
- 5.2(14) Duplicate or reissued license certificate fee is \$20.
- 5.2(15) Verification of license fee is \$20.
- 5.2(16) Returned check fee is \$25.
- 5.2(17) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

645—5.3(147,154D) Behavioral science license fees. All fees are nonrefundable.

5.3(1) License fee for license to practice marital and family therapy or mental health counseling is \$120.

5.3(2) Temporary license fee for license to practice marital and family therapy or mental health counseling is \$120.

5.3(3) License fee for license to practice as a behavior analyst or assistant behavior analyst is \$120. Behavior analyst and assistant behavior analyst licenses issued for less than one year shall not be subject to a renewal fee for the first renewal.

5.3(4) Biennial license renewal fee for each biennium is \$120.

5.3(5) Late fee for failure to renew before expiration is \$60.

5.3(6) Reactivation fee is \$180.

5.3(7) Duplicate or reissued license certificate fee is \$20.

5.3(8) Verification of license fee is \$20.

5.3(9) Returned check fee is \$25.

5.3(10) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[ARC 8152B, IAB 9/23/09, effective 10/28/09; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5751C, IAB 7/14/21, effective 8/18/21; ARC 6549C, IAB 10/5/22, effective 11/9/22]

645—5.4(151) Chiropractic license fees. All fees are nonrefundable.

5.4(1) License fee for license to practice chiropractic is \$270.

5.4(2) Fee for issuance of annual temporary certificate is \$120.

5.4(3) Biennial license renewal fee is \$120.

5.4(4) Late fee for failure to renew before the expiration date is \$60.

5.4(5) Reactivation fee is \$180.

5.4(6) Duplicate or reissued license certificate fee is \$20.

5.4(7) Fee for verification of license is \$20.

5.4(8) Returned check fee is \$25.

5.4(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.5(147,157) Cosmetology arts and sciences license fees. All fees are nonrefundable.

5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.

5.5(2) Biennial license renewal fee for each license for each biennium is \$60.

5.5(3) Late fee for failure to renew before expiration is \$60.

5.5(4) Reactivation fee for applicants licensed to practice cosmetology is \$120; for salons, \$144; and for schools, \$330.

5.5(5) Duplicate or reissued license certificate fee is \$20.

5.5(6) Fee for verification of license is \$20.

5.5(7) Returned check fee is \$25.

5.5(8) Disciplinary hearing fee is a maximum of \$75.

5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is \$600.

5.5(10) Fee for renewal of a school license is \$270 annually.

5.5(11) Salon license fee is \$84.

5.5(12) Biennial license renewal fee for each salon license for each biennium is \$84.

5.5(13) Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.

5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.

5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is \$25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.6(147,152A) Dietetics license fees. All fees are nonrefundable.

5.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is \$120.

5.6(2) Biennial license renewal fee for each biennium is \$120.

5.6(3) Late fee for failure to renew before expiration is \$60.

5.6(4) Reactivation fee is \$180.

5.6(5) Duplicate or reissued license certificate fee is \$20.

5.6(6) Verification of license fee is \$20.

5.6(7) Returned check fee is \$25.

5.6(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.7(147,154A) Hearing aid specialists license fees. All fees are nonrefundable.

5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is \$156.

5.7(2) Renewal of license fee is \$60.

5.7(3) Temporary permit fee is \$42.

5.7(4) Late fee is \$60.

5.7(5) Reactivation fee is \$120.

5.7(6) Duplicate or reissued license certificate fee is \$20.

5.7(7) Verification of license fee is \$20.

5.7(8) Returned check fee is \$25.

5.7(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

[ARC 2151C, IAB 9/16/15, effective 10/21/15; ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.8(147) Massage therapy license fees. All fees are nonrefundable.

5.8(1) License fee for license to practice massage therapy is \$120.

5.8(2) Biennial license renewal fee for each biennium is \$60.

5.8(3) Temporary license fee for up to one year is \$120.

5.8(4) Late fee for failure to renew before expiration is \$60.

5.8(5) Reactivation fee is \$120.

5.8(6) Duplicate or reissued license certificate fee is \$20.

5.8(7) Verification of license fee is \$20.

5.8(8) Returned check fee is \$25.

5.8(9) Disciplinary hearing fee is a maximum of \$75.

5.8(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.9(147,156) Mortuary science license fees. All fees are nonrefundable.

5.9(1) License fee for license to practice funeral directing is \$120.

5.9(2) Biennial funeral director's license renewal fee for each biennium is \$120.

5.9(3) Late fee for failure to renew before expiration is \$60.

5.9(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

5.9(5) Duplicate or reissued license certificate fee is \$20.

5.9(6) Verification of license fee is \$20.

5.9(7) Returned check fee is \$25.

5.9(8) Disciplinary hearing fee is a maximum of \$75.

5.9(9) Funeral establishment or cremation establishment fee is \$90.

5.9(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.10(147,155) Nursing home administrators license fees. All fees are nonrefundable.

5.10(1) License fee for license to practice nursing home administration is \$120.

5.10(2) Biennial license renewal fee for each license for each biennium is \$60.

5.10(3) Late fee for failure to renew before expiration is \$60.

5.10(4) Reactivation fee is \$120.

5.10(5) Duplicate or reissued license certificate fee is \$20.

5.10(6) Verification of license fee is \$20.

5.10(7) Returned check fee is \$25.

5.10(8) Disciplinary hearing fee is a maximum of \$75.

5.10(9) Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.11(147,148B) Occupational therapy license fees. All fees are nonrefundable.

5.11(1) License fee for an OT or OTA license to practice occupational therapy is \$120.

5.11(2) Biennial license renewal fee to practice occupational therapy is \$60.

5.11(3) Biennial license renewal fee for an occupational therapy assistant is \$60.

5.11(4) Late fee for failure to renew before expiration is \$60.

5.11(5) Reactivation fee is \$120.

5.11(6) Duplicate or reissued license certificate fee is \$20.

5.11(7) Verification of license fee is \$20.

5.11(8) Returned check fee is \$25.

5.11(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.12(147,154) Optometry license fees. All fees are nonrefundable.

5.12(1) License fee for license to practice optometry, license by endorsement, or license by reciprocity is \$300.

5.12(2) Biennial license renewal fee for each biennium is \$144.

5.12(3) Late fee for failure to renew before expiration date is \$60.

5.12(4) Reactivation fee is \$204.

5.12(5) Duplicate or reissued license certificate fee is \$20.

5.12(6) Verification of license fee is \$20.

5.12(7) Returned check fee is \$25.

5.12(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.13(147,148A) Physical therapy license fees. All fees are nonrefundable.

5.13(1) License fee for license to practice physical therapy or as a physical therapist assistant is \$120.

5.13(2) Biennial license renewal fee for a physical therapist is \$60.

5.13(3) Biennial license renewal fee for a physical therapist assistant is \$60.

5.13(4) Late fee for failure to renew before expiration is \$60.

5.13(5) Reactivation fee is \$120.

5.13(6) Duplicate or reissued license certificate fee is \$20.

5.13(7) Verification of license fee is \$20.

5.13(8) Returned check fee is \$25.

5.13(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.14(148C) Physician assistants license fees. All fees are nonrefundable.

5.14(1) Application fee for a license is \$120.

5.14(2) Fee for a temporary license is \$120.

5.14(3) Renewal of license fee is \$120.

5.14(4) Late fee for failure to renew before expiration is \$60.

5.14(5) Reactivation fee is \$180.

5.14(6) Duplicate or reissued license certificate fee is \$20.

5.14(7) Fee for verification of license is \$20.

5.14(8) Returned check fee is \$25.

5.14(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.15(147,148F,149) Podiatry license fees. All fees are nonrefundable.

5.15(1) License fee for license to practice podiatry, license by endorsement, or license by reciprocity is \$400.

5.15(2) License fee for temporary license to practice podiatry is \$200.

5.15(3) The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall

be \$600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be \$400.

5.15(4) Biennial license renewal fee is \$400 for each biennium.

5.15(5) Reactivation fee is \$460.

5.15(6) Temporary license renewal fee is \$200.

5.15(7) Late fee for failure to renew before expiration is \$60.

5.15(8) Duplicate or reissued license certificate fee is \$20.

5.15(9) Verification of license fee is \$20.

5.15(10) Returned check fee is \$25.

5.15(11) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 148F, 149 and 272C.
[ARC 1192C, IAB 11/27/13, effective 1/1/14; ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.16(147,154B) Psychology license fees. All fees are nonrefundable.

5.16(1) License fee for license to practice psychology is \$120.

5.16(2) Biennial license renewal fee is \$170.

5.16(3) Late fee for failure to renew before expiration is \$60.

5.16(4) Reactivation fee is \$230.

5.16(5) Duplicate or reissued license certificate fee is \$20.

5.16(6) Verification of license fee is \$20.

5.16(7) Returned check fee is \$25.

5.16(8) Disciplinary hearing fee is a maximum of \$75.

5.16(9) Processing fee for exemption to licensure is \$60.

5.16(10) Certification fee for a health service provider is \$60.

5.16(11) Biennial renewal fee for certification as a certified health service provider in psychology is \$60.

5.16(12) Reactivation fee for certification as a certified health service provider in psychology is \$60.

5.16(13) Provisional license fee is \$120.

5.16(14) Provisional license renewal fee is \$170.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C and 2014 Iowa Acts, chapter 1043.

[ARC 1834C, IAB 1/21/15, effective 2/25/15; ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.17(147,152B) Respiratory care license fees. All fees are nonrefundable.

5.17(1) Initial license fee.

a. The initial license fee for a respiratory care practitioner license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

b. The initial license fee for a polysomnographic technologist license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

c. The initial license fee for a respiratory care and polysomnography practitioner license is \$90, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

5.17(2) Biennial license renewal fee for each biennium.

a. The biennial license renewal fee for each biennium for a respiratory care practitioner license is \$75.

b. The biennial license renewal fee for each biennium for a polysomnographic technologist license is \$75.

c. The biennial license renewal fee for each biennium for a respiratory care and polysomnography practitioner license is \$90.

5.17(3) Late fee for failure to renew before expiration is \$60.

5.17(4) Reactivation fee.

a. The reactivation fee to practice respiratory care is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

b. The reactivation fee to practice as a polysomnographic technologist is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

c. The reactivation fee to practice respiratory care and polysomnography is \$150, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

5.17(5) Duplicate or reissued license certificate fee is \$20.

5.17(6) Verification of license fee is \$20.

5.17(7) Returned check fee is \$25.

5.17(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.
[ARC 2717C, IAB 9/14/16, effective 10/19/16; ARC 5751C, IAB 7/14/21, effective 8/18/21; ARC 6464C, IAB 8/10/22, effective 9/14/22]

645—5.18(147,154E) Sign language interpreters and transliterators license fees. All fees are nonrefundable.

5.18(1) License fee for license to practice interpreting or transliterating is \$120.

5.18(2) License fee for temporary license to practice interpreting or transliterating is \$120.

5.18(3) Biennial license renewal fee for each biennium is \$120.

5.18(4) Late fee for failure to renew before expiration is \$60.

5.18(5) Duplicate or reissued license certificate fee is \$20.

5.18(6) Verification of license fee is \$20.

5.18(7) Returned check fee is \$25.

5.18(8) Disciplinary hearing fee is a maximum of \$75.

5.18(9) Reactivation fee is \$180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.
[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.19(147,154C) Social work license fees. All fees are nonrefundable.

5.19(1) License fee for license to practice social work is \$120.

5.19(2) Biennial license renewal fee for a license at the bachelor's level is \$72; at the master's level, \$120; and independent level, \$144.

5.19(3) Late fee for failure to renew before expiration is \$60.

5.19(4) Reactivation fee for the bachelor's level is \$132; for the master's level, \$180; and independent level, \$204.

5.19(5) Duplicate or reissued license certificate fee is \$20.

5.19(6) Verification of license fee is \$20.

5.19(7) Returned check fee is \$25.

5.19(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.
[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—5.20(147) Speech pathology and audiology license fees. All fees are nonrefundable.

5.20(1) License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is \$120.

5.20(2) Biennial license renewal fee for each biennium is \$96.

5.20(3) Late fee for failure to renew before expiration is \$60.

5.20(4) Reactivation fee is \$156.

5.20(5) Duplicate or reissued license certificate fee is \$20.

5.20(6) Verification of license fee is \$20.

5.20(7) Returned check fee is \$25.

5.20(8) Disciplinary hearing fee is a maximum of \$75.

5.20(9) Temporary clinical license renewal fee is \$60.

5.20(10) Temporary permit fee is \$30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	3628
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	6	Iowa Code Section Authorizing Rule:	17A
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-6.1(17A). Petition for rule making. The intended benefit of this rule is to provide guidance on petitioning the boards for rule making.

645-6.2(17A). Inquiries. The intended benefit of this rule is to provide the public with information on how to obtain information concerning the state of a petition for rule making with a specific board.

Is the benefit being achieved? Please provide evidence.

645-6.1(17A). Petition for rule making. Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

645-6.2(17A). Inquiries. Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

645-6.1(17A). Petition for rule making. There are no costs to the public to comply with this rule.

645-6.2(17A). Inquiries. There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-6.1(17A). Petition for rule making. Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings.

645-6.2(17A). Inquiries. Costs to the agency are the staff time needed to receive and respond to inquiries concerning the status of a petition for rule making.

Do the costs justify the benefits achieved? Please explain.

645-6.1(17A). Petition for rule making. Yes, the costs justify the benefits because the public should have a mechanism to propose new rules when necessary and be a part of the rule making process. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 2, "Petitions for Rule Making," which is substantively analogous to 645—Chapter 6.

645-6.2(17A). Inquiries. Yes, the costs justify the benefits because it allows the public a method to follow up on public requests for rule making. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 2, "Petitions for Rule Making," which is substantively analogous to 645—Chapter 6.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-6: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

**For rules being re-promulgated with changes, you may attach a document with suggested changes.*

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	110
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	7	Iowa Code Section Authorizing Rule:	17A
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-7.1(17A). Adoption by reference. The intended benefit of this rule is to adopt the agency procedure for rulemaking of the Uniform Rules on Agency Procedure found in the first volume of the Iowa Administrative Code. The rule provides for amendments of the uniform rule to fit the purpose of the division.

Is the benefit being achieved? Please provide evidence.

645-7.1(17A). Adoption by reference. Yes, the intended benefit is being achieved. This specific chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this chapter.

What are the costs incurred by the public to comply with the rule?

645-7.1(17A). Adoption by reference. There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-7.1(17A). Adoption by reference. Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings.

Do the costs justify the benefits achieved? Please explain.

645-7.1(17A). Adoption by reference. Yes, the costs justify the benefits because it provides the public with a procedure for rulemaking. In order for the public to have this ability, there needs to be a uniform process in place for all of the boards. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 4, “Agency Procedure for Rule Making,” which is substantively analogous to 645—Chapter 7 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-7.1: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	166

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation

all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	8	Iowa Code Section Authorizing Rule:	17A
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-8.1(17A). Petition for declaratory order. The intended benefit of this rule is provide directions to petition for declaratory order from the board.

645-8.2(17A). Notice of petition. The intended benefit of this rule is to provide time frame for notice of the petition to be provided.

645-8.3(17A). Intervention. The intended benefit of this rule is to provide a time frame for intervention.

645-8.5(17A). Inquiries. The intended benefit of this rule is to provide a location for the public to direct inquiries on declaratory orders.

Is the benefit being achieved? Please provide evidence.

645-8.1(17A). Petition for declaratory order. Yes, the intended benefit is being achieved. This chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-8.2(17A). Notice of petition. Yes, the intended benefit is being achieved. This chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-8.3(17A). Intervention. Yes, the intended benefit is being achieved. This chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-8.5(17A). Inquiries. Yes, the intended benefit is being achieved. This chapter will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

What are the costs incurred by the public to comply with the rule?

645-8.1(17A). Petition for declaratory order. There are no costs to the public to comply with this rule.

645-8.2(17A). Notice of petition. There are no costs to the public to comply with this rule.

645-8.3(17A). Intervention. There are no costs to the public to comply with this rule.

645-8.5(17A). Inquiries. There are no costs to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-8.1(17A). Petition for declaratory order. Costs to the agency are the staff time needed to manage board activities, including the rule making process. There is a cost incurred for the board members to attend board meetings (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings.

645-8.2(17A). Notice of petition. There are no costs to the agency or any other agency to implement/enforce this rule.

645-8.3(17A). Intervention. There are no costs to the agency or any other agency to implement/enforce this rule.

645-8.5(17A). Inquiries. Costs to the agency are the staff time needed to receive and respond to inquiries. If its needed to consult with board members on an inquiry there is a cost incurred for the board members (\$50.00 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings.

Do the costs justify the benefits achieved? Please explain.

645-8.1(17A). Petition for declaratory order. Yes, the costs justify the benefits because it provides the public the ability to petition the board for a declaratory order. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 3, "Petitions for Declaratory Order," which is substantively analogous to 645—Chapter 8.

645-8.2(17A). Notice of petition. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 3, "Petitions for Declaratory Order," which is substantively analogous to 645—Chapter 8.

645-8.3(17A). Intervention. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 3, "Petitions for Declaratory Order," which is substantively analogous to 645—Chapter 8.

645-8.5(17A). Inquiries. Yes, the costs justify the benefits because it provides the public with a location to direct inquiries on declaratory orders. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to

rely on DIAL's 481—Chapter 3, "Petitions for Declaratory Order," which is substantively analogous to 645—Chapter 8.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-8.1: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	138
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/24/23	Total Rule Count:	7
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 9 Complaints and Investigations	Iowa Code Section Authorizing Rule:	272C, 17A
Contact Name:	Dennis Tibben	Email:	Dennis.tibben@dia.iowa.gov	Phone:	515-281-7088

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to ensure the public and licensees are aware of the complaint and investigation process and understand their rights and responsibilities during this process. This rule sets forth information regarding complaints and investigations against licensee. It provides information regarding the process for submitting a complaint, duties of licensees to report malpractice claims or disciplinary actions to the Board, duties of licensees to report first-hand knowledge of acts or omissions of other licensees in violation of Board rules, information on the investigative process, the issuance of investigatory subpoenas, peer review committees, and board appearances.

Is the benefit being achieved? Please provide evidence.

The Board’s investigative process is largely dictated by Iowa Code 272C. The board believes that the benefit of the rule is being achieved as it provides the public and licensees information to ensure that they understand their responsibilities and rights around complaints and investigations. The rule provides the licensee with needed information about the process enabling them to make reports if necessary, and understand how to address the receipt of a subpoena for records. The investigative process permits the Board to gather needed information to determine if a violation of Board rule did occur. This is the primary mechanism boards have to protect the public.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a cost to licensees in the form of licensing application and renewal fees, which in turn gives the Board the ability to hire staff that investigate cases. Most Boards assess renewal fees every two years. Renewal cost ranges from a low of \$60 per every two years (nursing home administrators, cosmetologists, massage therapists, and physical / occupational therapists to \$400 every two years (podiatrist). There could be additional costs to a licensee if they retain counsel to represent them during the course of the investigation.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, including complaints and investigations. The time needed to manage this provision is generally in the form of written and verbal correspondence with licensees, complainants and other pertinent parties, issuing subpoenas, gathering records, conducting interviews as needed, and authoring investigative reports. This information is then provided to the board at board meetings where costs are incurred through per diem (\$50 per day for official board duties) and mileage for the board members. Mileage costs have been minimal through the use of virtual meetings. If a case is determined by the Board to need a higher level review by an outside expert

there is a cost to the agency in order to conduct a peer review. There is 1 FTE assigned to investigate PL complaints, with support from executive officers. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of investigations and complaints are to address allegations against licensees, enabling the board to make informed decisions regarding that licensee, which ultimately services to protect the public from unscrupulous practice. Eliminating complaints and investigations has the potential to cause harm to the public because it would allow acts detrimental to the public to go unchecked.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Board investigations are conducted by gathering information through a legal process. The Board does utilize letter correspondence for some complaints that do not rise to the level of requiring personal interviews, for example, which is less restrictive on both staff and licensee time. Boards believe that this process works because it allows staff to obtain the necessary information, and for Boards to then evaluate the extent to which a complaint does or does not violate Board rule. The licensing board investigative process is fairly similar across the country for regulated professions.

There are 19 Boards included in this chapter, which accounts for over 61,000 licensed professionals. In total these boards receive on average, 300 - 350 complaints per year.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 9.1: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 9.2: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 9.3: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 9.4: Removed redundant and obsolete language
- 9.5: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 9.6: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 9 COMPLAINTS AND INVESTIGATIONS

645—9.1(272C) Complaints.

9.1(1) Complaints can be submitted online, in writing, or verbally and include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board

9.1(2) A person is not civilly liable for filing a complaint in good faith, or for cooperating with a board investigation.

645—9.2(272C) Report of malpractice claims or actions or disciplinary actions. The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

645—9.3(272C) Report of acts or omissions. A licensee who has knowledge of rule violations committed by another licensee will file a report to the board. The report will include the name and contact information of the licensee and the date, time, and place of the incident.

645—9.4(272C) Investigation of complaints or reports. Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties to sufficiently inform the board.

645—9.5(17A,272C) Issuance of investigatory subpoenas.

9.5(1) The board administrator or designee may, upon the written request of a board investigator or on the administrator's own initiative, subpoena books, papers, records, and other real evidence which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a.* The nature of the complaint reasonably justifies the issuance of a subpoena;
- b.* Adequate safeguards have been established to prevent unauthorized disclosure;
- c.* An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d.* An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

9.5(3) Each subpoena will contain:

- a.* The name and address of the person to whom the subpoena is directed;
- b.* A description of the books, papers, records or other real evidence requested;
- c.* The date, time and location for production, or inspection and copying;

- d. The deadline for a motion to quash or modify the subpoena to be filed;
- e. The signature, address and telephone number of the board administrator or designee;
- f. The date of issuance;
- g. A return of service.

9.5(4) A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion accompanied by a legal brief or factual affidavits, within 14 days after service of the subpoena.

9.5(5) Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

9.5(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, via email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

9.5(7) If the person contesting the subpoena is not the person under investigation, the board’s decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board’s decision is not final for purposes of judicial review until either (1) the person is notified the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

645—9.6(272C) Peer review committees.

9.6(1) A complaint may be assigned to a peer reviewer for review and report to the board.

9.6(2) The board determines what complaints or other matters are referred to a peer reviewer. **9.6(3)** Peer reviewers are not be liable for acts, omissions, or decisions made in connection with service made in good faith.

9.6(4) The peer reviewer will observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

645—9.7(17A) Appearance. The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board administrator assisting the board in the contested case proceeding.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	467
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	16

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	10	Iowa Code Section Authorizing Rule:	17A, 22
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-10.1(17A,22). Definitions. The intended benefit of this rule is provide definitions for use of this rule chapter.

645-10.3(17A,22). Request for access to records. The intended benefit of this rule is to the location of records, the office hours when records may be requested and the search and supervisory fee charged for records search.

645-10.5(17A,22). Request for treatment of a record as a confidential record and its withholding from examination. The intended benefit of this rule is to inform the public that this rule cannot be used to request that a record of licensee disciplinary proceedings, required by law to be public record, receive confidential record status.

645-10.6(17A,22). Procedures by which additions, dissents, or objections may be entered into certain records. The intended benefit of this rule is to designate words to use in lieu of the uniform reading of the rule.

645-10.9 (17A,22). Disclosures without the consent of the subject. The intended benefit of this rule is to provide the method by which open records are provided to certain recipients without the consent of the subject.

645-10.10 (17A,22). Routine use. The intended benefit of this rule is to provide definition of the routine use of records and provide information on what is considered routine uses of all board records.

645-10.11(17A,22). Consensual disclosure of confidential records. The intended benefit of this rule is to provide for a licensee to consent to the board's disclosure of confidential records and disclose that should a licensee/subject send a letter to a public official regarding a confidential records, the board may treat the letter as an authorization to release sufficient confidential records to the public official to resolve the matter.

645-10.12(17A,22). Release to subject. The intended benefit of this rule is to allow the subject of a confidential record to ability to file a written request to review said confidential records with the exception of the information in the licensee complaint and investigation file prior to the filing of formal charges, records that are the work product of an attorney and peace officers' investigative reports.

645-10.13(17A,22). Availability of records. The intended benefit of this rule is to inform that board records are generally open for public inspection and list the various records that are withheld from public inspection due to confidentiality.

645-10.14(17A,22). Personally identifiable information. The intended benefit of this rule is to describe the nature and extent of personally identifiable information that is collected, maintained and retrieved by the board by personal identifier in record systems. The rule describes the legal authority for the collection of this information and the means of storage of the information.

645-10.15(22). Other groups of records routinely available for public inspection. The intended benefit of this rule is to described the records maintained by the board other than records maintained or retrieved by personal identifiers. The rule identifies the information that is stored electronically and the types of records in this section.

645-10.16(17A,22). Applicability. The intended benefit of this rule is to state what is not required of the boards in terms of records.

Is the benefit being achieved? Please provide evidence.

645-10.1(17A,22). Definitions. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.3(17A,22). Requests for access to records. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.5(17A,22). Request for treatment of a record as a confidential record and its withholding from examination. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.6(17A,22). Procedures by which additions, dissents, or objections may be entered into certain records. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.9(17A,22). Disclosures without the consent of the subject. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.10(17A,22). Routine use. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.11(17A,22). Consensual disclosure of confidential records. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.12(17A,22). Release to subject. Yes, the intended benefit is being achieved. This rule will be repealed and the new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.13(17A,22). Availability of records. Yes, the intended benefit is being achieved. This rule will be repealed and the new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.14(17A,22). Personally identifiable information. Yes, the intended benefit is being achieved. This rule will be repealed and the new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.15(17A). Other groups of records routinely available for public inspection. Yes, the intended benefit is being achieved. This rule will be repealed and the new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-10.16(17A,22). Applicability. Yes, the intended benefit is being achieved. This rule will be repealed and the new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

What are the costs incurred by the public to comply with the rule?

645-10.1(17A,22). Definitions. N/A

645-10.3(17A,22). Requests for access to records. The requestor of the records may incur the actual agency expenses in searching for and supervising the examination and copying of requested records if the time required to do so is in excess of one hour.

645-10.5(17A,22). Request for treatment of a record as a confidential record and its withholding from examination. There is no cost to the public to comply with this rule.

645-10.6(17A,22). Procedures by which additions, dissents, or objections may be entered into certain records. There is no cost to the public to comply with this rule.

645-10.9(17A,22). Disclosures without the consent of the subject. There is no cost to the public to comply with this rule.

645-10.10(17A,22). Routine use. There is no cost to the public to comply with this rule.

645-10.11(17A,22). Consensual disclosure of confidential records. There is no cost to the public to comply with this rule.

645-10.12(17A,22). Release to subject. There is no cost to the public to comply with this rule.

645-10.13(17A,22). Availability of records. There is no cost to the public to comply with this rule.

645-10.14(17A,22). Personally identifiable information. There is no cost to the public to comply with this rule.

645-10.15(17A). Other groups of records routinely available for public inspection. There is no cost to the public to comply with this rule.

645-10.16(17A,22). Applicability. There is no cost to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-10.1(17A,22). Definitions. N/A

645-10.3(17A,22). Requests for access to records. The cost to the agency to implement and enforce this rule is the cost to staff personnel to search for and supervise the examination and copying of the records. The agency may charge the requestor of the records a fee if the search/examination/copying exceeds one hour.

645-10.5(17A,22). Request for treatment of a record as a confidential record and its withholding from examination. The cost to the agency to implement and enforce this rule is the cost of staff to respond to said requests.

645-10.6(17A,22). Procedures by which additions, dissents, or objections may be entered into certain records. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.9(17A,22). Disclosures without the consent of the subject. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.10(17A,22). Routine use. There are no costs to the agency to implement/enforce this rule.

645-10.11(17A,22). Consensual disclosure of confidential records. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.12(17A,22). Release to subject. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.13(17A,22). Availability of records. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.14(17A,22). Personally identifiable information. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.15(17A). Other groups of records routinely available for public inspection. There are no direct costs to the agency to implement/enforce this rule. The agency employs board staff in charge of records requests.

645-10.16(17A,22). Applicability. There are no costs to implement/enforce this rule.

Do the costs justify the benefits achieved? Please explain.

645-10.1(17A,22). Definitions. N/A

645-10.3(17A,22). Requests for access to records. Yes, the costs justify the benefits achieved. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL's 481—Chapter 5, "Public Records and Fair Information Practices," which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

645-10.5(17A,22). Request for treatment of a record as a confidential record and its withholding from examination. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

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645-10.10(17A,22). Routine use. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

645-10.11(17A,22). Consensual disclosure of confidential records. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

645-10.12(17A,22). Release to subject. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

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645-10.14(17A,22). Personally identifiable information. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

645-10.15(17A). Other groups of records routinely available for public inspection. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

645-10.16(17A,22). Applicability. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, the board will be able to rely on DIAL’s 481—Chapter 5, “Public Records and Fair Information Practices,” which are substantively similar to 645—Chapter 10 and in line with a stated goal of 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-10: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

**For rules being re-promulgated with changes, you may attach a document with suggested changes.*

METRICS

Total number of rules repealed:	12
Proposed word count reduction after repeal and/or re-promulgation	2,515
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	11	Iowa Code Section Authorizing Rule:	17A,272C
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-11.1 (17A). Scope and applicability. State that contested case hearings in this chapter are proceedings conducted by the boards.

645-11.2 (17A). Definitions. To provide definitions of terms used in this chapter.

645-11.3 (17A). Time requirements. Defers to Iowa Code 4.1(34) for the timing of contested cases and allows the presiding officer to extend or shorten the time to take action.

645-11.4 (17A). Probable cause. Provides for the board to order a contested case hearing if there is probable cause following an investigation of a licensee.

645-11.5 (17A). Legal review. Provides for the review of statements of charges and notice of hearings by the attorney general’s office.

645-11.6 (17A). Statement of charges and notice of hearing. Provides direction on the service/delivery of the statement of charges and notice of hearing as well as the contents which must be contained in the statement of charges and notice of hearing.

645-11.7 (17A). Legal representation. Provides for representation of the public interest by the attorney general’s office following the filing of a statement of charges and notice of hearing. Also provides for all other parties to be represented by counsel at their own expense.

645-11.8 (17A). Presiding officer in a disciplinary contested case. Provides for the board to be the presiding officer in a disciplinary contested case and allows the board to request ALJ assist with the rulings on prehearing motions and advise the board at the hearing.

645-11.9 (17A). Presiding officer in a nondisciplinary contested case. Provides for any party to request an ALJ be assigned as the presiding officer and provides circumstances whereby the board can deny the request.

645-11.10 (17A). Disqualification. Provides for instances when a presiding officer must withdraw from participation in the decisions of a contested case due to disqualification or conflict.

645-11.11 (17A). Consolidation—severance. Allows the presiding officer to consolidate matters in two or more contested cases where certain parameters are met.

645-11.12 (17A). Answer. Provides for the time for filing an Answer and the required contents of the answer.

645-11.13 (17A). Service and filing. Provides rules on which documents need to be served on parties in a contested case, how service can be made and the proof which must be filed.

645-11.14 (17A). Discovery. Refers to Iowa Rules of Civil Procedure for rules of discovery.

645-11.15 (17A). Issuance of subpoenas in a contested case. Provides rules on requesting a subpoena, the contents of the request, the contents of the subpoena and the methods to challenge a subpoena.

645-11.16 (17A). Motions. Provides time frames for filing motions and necessary information to include in motions.

645-11.17 (17A). Prehearing conferences. Allows any party to request a prehearing conference to be conducted by the board administrator and provides the content of prehearing conferences/orders.

645-11.18 (17A). Continuances. Allows for granting of continuance no less than 5 days before the hearing.

645-11.19 (17A). Hearing procedures. Provides the procedures for conducting the contested hearing.

645-11.20 (17A). Evidence. Defines what evidence is allowed to be considered in a contested hearing.

645-11.21 (17A). Default. Allows for a default decision to be made if a party fails to appear at hearing and also provides for rules specific to default decisions.

645-11.22 (17A). Ex parte communication. Defines prohibited communications between the presiding officer and any other party and when those communications become prohibited.

645-11.23 (17A). Recording costs. Allows for the copy of the record of a contested hearing at the cost of the requesting party.

645-11.24 (17A). Interlocutory appeals. Provides rules on filing an interlocutory appeal including timelines and content of the appeal.

645-11.25 (17A). Applications for rehearing. Provides rules on filing an application for rehearing including who may file, the content of the application, filing deadline, notice to parties and disposition.

645-11.26 (17A). Stays of agency actions. Provides rules on when a party may ask to stay agency actions and when it is granted.

645-11.27 (17A). No factual dispute contested cases. Allows a procedure for evidence to be submitted by stipulation without the need for an evidentiary hearing.

645-11.28 (17A). Emergency adjudicative proceedings. Allows the board to issue a written emergency adjudicative order when there is a danger to the public health, safety or welfare.

645-11.29 (17A). Appeal. Provides for an appeal of the board's decision to the district court within 30 days of the issuance of the board decision.

645-11.30 (17A). Publication of decisions. Informs the parties that final decisions of the board will be transmitted to the associations, news and employers.

645-11.31 (17A). Reinstatement. Provides rules on who can apply for reinstatement and how to apply for reinstatement if the license has been revoked or suspended.

645-11.32 (17A). License denial. Provides rules to appeal a license denial and timeframe for doing so.

Is the benefit being achieved? Please provide evidence.

645-11.1 (17A). Scope and applicability. N/A

645-11.2 (17A). Definitions. N/A

645-11.3 (17A). Time requirements. Yes, the intended benefit is being achieved.

645-11.4 (17A). Probable cause. Yes, the intended benefit is being achieved.

645-11.5 (17A). Legal review. No, this rule should be eliminated and consolidated with 645-11.6.

645-11.6 (17A). State of charges and notice of hearing. Yes, the intended benefit is being achieved.

645-11.7 (17A). Legal representation. Yes, the intended benefit is being achieved.

645-11.8 (17A). Presiding officer in a disciplinary contested case. Yes, the intended benefit is being achieved.

645-11.9 (17A). Presiding officer in a nondisciplinary contested case. Yes, the intended benefit is being achieved.

645-11.10 (17A). Disqualification. Yes, the intended benefit is being achieved.

645-11.11 (17A). Consolidation—severance. Yes, the intended benefit is being achieved.

645-11.12 (17A). Answer. Yes, the intended benefit is being achieved, but this section would be more appropriate titled pleadings to encompass more than just an answer filing.

645-11.13 (17A). Service and filing. Yes, the intended benefit is being achieved.

645-11.14 (17A). Discovery. Yes, the intended benefit is being achieved.

645-11.15 (17A). Issuance of subpoenas in a contested case. Yes, the intended benefit is being achieved.

645-11.16 (17A). Motions. Yes, the intended benefit is being achieved.

645-11.17 (17A). Prehearing conferences. Yes, the intended benefit is being achieved.

645-11.18 (17A). Continuances. Yes, the intended benefit is being achieved.

645-11.19 (17A). Hearing procedures. Yes, the intended benefit is being achieved.

645-11.20 (17A). Evidence. Yes, the intended benefit is being achieved.

645-11.21 (17A). Default. Yes, the intended benefit is being achieved.

645-11.22 (17A). Ex parte communication. Yes, the intended benefit is being achieved.

645-11.23 (17A). Recording costs. Yes, the intended benefit is being achieved.

645-11.24 (17A). Interlocutory appeals. Yes, the intended benefit is being achieved.

645-11.25 (17A). Applications for rehearing. Yes, the intended benefit is being achieved.

645-11.26 (17A). Stays of agency actions. Yes, the intended benefit is being achieved.

645-11.27 (17A). No factual dispute contested cases. Yes, the intended benefit is being achieved.

645-11.28 (17A). Emergency adjudicative proceedings. Yes, the intended benefit is being achieved.

645-11.29 (17A). Appeal. Yes, the intended benefit is being achieved.

645-11.30 (17A). Publication of decisions. Yes, the intended benefit is being achieved.

645-11.31 (17A). Reinstatement. Yes, the intended benefit is being achieved.

645-11.32 (17A). License denial. Yes, the intended benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

645-11.1 (17A). Scope and applicability. N/A

645-11.2 (17A). Definitions. N/A

645-11.3 (17A). Time requirements. There are no costs incurred by the public to comply with this rule.

645-11.4 (17A). Probable cause. There are no direct costs to the public to comply with this rule. A party may incur costs related to an investigation and the filing of contested case proceedings.

645-11.5 (17A). Legal review. There are no costs to the public to comply with this rule.

645-11.6 (17A). State of charges and notice of hearing. The parties may incur costs for service fees, mailing or publication of notice.

645-11.7 (17A). Legal representation. There is no direct cost to the public to comply with this rule. A party, other than the public interest, may incur costs related to legal representation of their own.

645-11.8 (17A). Presiding officer in a disciplinary contested case. There is no cost to the public to comply with this rule.

645-11.9 (17A). Presiding officer in a nondisciplinary contested case. There is no cost to the public to comply with this rule.

645-11.10 (17A). Disqualification. There is no cost to the public to comply with this rule.

645-11.11 (17A). Consolidation—severance. There is no cost to the public to comply with this rule. Consolidating cases allows for more efficient use of the board's time and resources.

645-11.12 (17A). Answer. There is no cost to the public to comply with this rule.

645-11.13 (17A). Service and filing. There is no direct cost to the public to comply with this rule. A party may incur costs for service by mail or personal service.

645-11.14 (17A). Discovery. There is no direct cost to the public to comply with this rule. A party may incur costs related to the examination, preparation and responding to discovery requests.

645-11.15 (17A). Issuance of subpoenas in a contested case. There is no direct cost to the public to comply with this rule. A party may incur costs associated with the service of the subpoena.

645-11.16 (17A). Motions. There is no cost to the public to comply with this rule.

645-11.17 (17A). Prehearing conferences. There is no cost to the public to comply with this rule.

645-11.18 (17A). Continuances. There is no cost to the public to comply with this rule.

645-11.19 (17A). Hearing procedures. There is no cost to the public to comply with this rule.

645-11.20 (17A). Evidence. There is no cost to the public to comply with this rule.

645-11.21 (17A). Default. There is no cost to the public to comply with this rule.

645-11.22 (17A). Ex parte communication. There is no cost to the public to comply with this rule.

645-11.23 (17A). Recording costs. The public/party is charged with the cost of preparing a copy of the record and transcribing the record.

645-11.24 (17A). Interlocutory appeals. There is no cost to the public to comply with this rule.

645-11.25 (17A). Applications for rehearing. There is no cost to the public to comply with this rule.

645-11.26 (17A). Stays of agency actions. There is no cost to the public to comply with this rule.

645-11.27 (17A). No factual dispute contested cases. There is no cost to the public to comply with this rule. This rule provides for more time/resource efficiency.

645-11.28 (17A). Emergency adjudicative proceedings. There is no cost to the public to comply with this rule. Without this rule the public could be at risk of harm if a licensee is allowed to continue to practice/work after violating rule provisions that put the public at risk for their safety and welfare.

645-11.29 (17A). Appeal. There is no cost to the public to comply with this rule.

645-11.30 (17A). Publication of decisions. There is no cost the public to comply with this rule.

645-11.31 (17A). Reinstatement. There is no cost to the public to comply with this rule.

645-11.32 (17A). License denial. There is no cost to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-11.1 (17A). Scope and applicability. N/A

645-11.2 (17A). Definitions. N/A

645-11.3 (17A). Time requirements. There is no cost to the agency to implement/enforce this rule.

645-11.4 (17A). Probable cause. The agency incurs the costs of the investigation to determine whether probable cause exists.

645-11.5 (17A). Legal review. There is no cost to the agency to implement/enforce this rule.

645-11.6 (17A). State of charges and notice of hearing. The agency incurs the costs of process service via mail, publication or personal service.

645-11.7 (17A). Legal representation. There is no cost to the agency to implement/enforce this rule.

645-11.8 (17A). Presiding officer in a disciplinary contested case. The agency incurs the cost of the board members for the contested hearings.

645-11.9 (17A). Presiding officer in a nondisciplinary contested case. The agency incurs the cost of the board members for the hearing.

645-11.10 (17A). Disqualification. There is no cost to the agency to implement/enforce this rule.

645-11.11 (17A). Consolidation—severance. There is no cost to the agency to implement/enforce this rule. This rule saves the agency time and resources.

645-11.12 (17A). Answer. There is no cost to the agency to implement/enforce this rule.

645-11.13 (17A). Service and filing. The agency incurs the cost to serve the documents on the other parties.

645-11.14 (17A). Discovery. The agency may incur costs related to the research, examination and reporting of requested discovery.

645-11.15 (17A). Issuance of subpoenas in a contested case. The agency may incur costs related to the service of subpoenas.

645-11.16 (17A). Motions. There is no cost to the agency to implement/enforce this rule.

645-11.17 (17A). Prehearing conferences. There is no cost to the agency to implement/enforce this rule.

645-11.18 (17A). Continuances. There is no direct cost to the agency to implement/enforce this rule. If a continuance is requested at the last minutes, there may be costs of board members or witnesses that would need to reappear at a future date.

645-11.19 (17A). Hearing procedures. There is no cost to the agency to implement/enforce this rule.

645-11.20 (17A). Evidence. There is no cost to the agency to implement/enforce this rule.

645-11.21 (17A). Default. There is no cost to the agency to implement/enforce this rule.

645-11.22 (17A). Ex parte communication. There is no cost to the agency to implement/enforce this rule.

645-11.23 (17A). Recording costs. There is no cost to the agency to implement/enforce this rule.

645-11.24 (17A). Interlocutory appeals. There is no cost to the agency to implement/enforce this rule.

645-11.25 (17A). Applications for rehearing. There is no cost to the agency to implement/enforce this rule.

645-11.26 (17A). Stays of agency actions. There is no cost to the agency to implement/enforce this rule.

645-11.27 (17A). No factual dispute contested cases. There is no cost to the agency to implement/enforce this rule.

645-11.28 (17A). Emergency adjudicative proceedings. There is no cost to the agency to implement/enforce this rule.

645-11.29 (17A). Appeal. There is no cost to the agency to implement/enforce this rule.

645-11.30 (17A). Publication of decisions. There is no cost to the agency to implement/enforce this rule.

645-11.31 (17A). Reinstatement. There is no cost to the agency to implement/enforce this rule.

645-11.32 (17A). License denial. There is no cost to the agency to implement/enforce this rule.

Do the costs justify the benefits achieved? Please explain.

645-11.1 (17A). Scope and applicability. N/A

645-11.2 (17A). Definitions. N/A

645-11.3 (17A). Time requirements. Yes, the costs justify the benefits achieved.

645-11.4 (17A). Probable cause. Yes, the costs justify the benefits achieved.

645-11.5 (17A). Legal review. Yes, the costs justify the benefits achieved.

645-11.6 (17A). State of charges and notice of hearing. Yes, the costs justify the benefits achieved.

645-11.7 (17A). Legal representation. Yes, the costs justify the benefits achieved.

645-11.8 (17A). Presiding officer in a disciplinary contested case. Yes, the costs justify the benefits achieved.

645-11.9 (17A). Presiding officer in a nondisciplinary contested case. Yes, the costs justify the benefits achieved.

645-11.10 (17A). Disqualification. Yes, the costs justify the benefits achieved.

645-11.11 (17A). Consolidation—severance. Yes, the costs justify the benefits achieved.

645-11.12 (17A). Answer. Yes, the costs justify the benefits achieved.

645-11.13 (17A). Service and filing. Yes, the costs justify the benefits achieved.

645-11.14 (17A). Discovery. Yes, the costs justify the benefits achieved.

645-11.15 (17A). Issuance of subpoenas in a contested case. Yes, the costs justify the benefits achieved.

645-11.16 (17A). Motions. Yes, the costs justify the benefits achieved.

645-11.17 (17A). Prehearing conferences. Yes, the costs justify the benefits achieved.

645-11.18 (17A). Continuances. Yes, the costs justify the benefits achieved.

645-11.19 (17A). Hearing procedures. Yes, the costs justify the benefits achieved.

645-11.20 (17A). **Evidence.** Yes, the costs justify the benefits achieved.

645-11.21 (17A). **Default.** Yes, the costs justify the benefits achieved.

645-11.22 (17A). **Ex parte communication.** Yes, the costs justify the benefits achieved.

645-11.23 (17A). **Recording costs.** Yes, the costs justify the benefits achieved.

645-11.24 (17A). **Interlocutory appeals.** Yes, the costs justify the benefits achieved.

645-11.25 (17A). **Applications for rehearing.** Yes, the costs justify the benefits achieved.

645-11.26 (17A). **Stays of agency actions.** Yes, the costs justify the benefits achieved.

645-11.27 (17A). **No factual dispute contested cases.** Yes, the costs justify the benefits achieved.

645-11.28 (17A). **Emergency adjudicative proceedings.** Yes, the costs justify the benefits achieved.

645-11.29 (17A). **Appeal.** Yes, the costs justify the benefits achieved.

645-11.30 (17A). **Publication of decisions.** Yes, the costs justify the benefits achieved.

645-11.31 (17A). **Reinstatement.** Yes, the costs justify the benefits achieved.

645-11.32 (17A). **License denial.** Yes, the costs justify the benefits achieved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The alternative to providing rules and directives on contested case hearings would leave too much discretion to the boards and could create a risk of harm to the public. Additionally, licensees would not have a procedure to contest the allegations against them in an adversarial fashion.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule, eliminate the obsolete provisions of the rule, and streamline provisions into this one chapter in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed, and what was added to allow standardization and removal of chapter leading to an overall reduction of words in Administrative Code.

Added informal settlements to Chapter 11.
12: rescinded in full.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-11.5: Rescind (added to rule 645-11.6)

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 11

CONTESTED CASES AND INFORMAL SETTLEMENT

645—11.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of _____ examiners.

645—11.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent, or an intervenor.

“*Presiding officer*” means the board of _____ examiners.

645—11.3(17A) Time requirements.

11.3(1) Time will be computed as provided in Iowa Code subsection 4.1(34).

11.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

645—11.4(17A) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board will order a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

645—11.5(17A) Statement of charges and notice of hearing.

11.5(1) *Legal review.* Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

11.5(2) *Delivery.* Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Restricted certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

11.5(3) *Contents.* The statement of charges and notice of hearing will contain the following information:

- a. A statement by the board showing that there is probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties' counsel, if known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing informal settlement;
- i. Identification of the board as the presiding officer; and
- j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11, and rules 11.8(17A,272C) and 11.9(17A,272C), that the presiding officer be an administrative law judge.

645—11.6(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board will be entitled to have counsel at their own expense.

645—11.7(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case will be the board. The board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 11.24(17A). An administrative law judge may assist and advise the board at the contested case hearing.

645—11.9(17A) Presiding officer in a nondisciplinary contested case.

11.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

11.9(2) The board may deny the request only upon a finding that one or more of the following apply:

- a.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b.* An administrative law judge with the qualifications identified in 11.9(4) is unavailable to hear the case within a reasonable time.
- c.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f.* The request was not timely filed.
- g.* The request is not consistent with a specified statute.

11.9(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in 11.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

11.9(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the agency.

11.9(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

11.9(6) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of this chapter which apply to presiding officers.

645—11.10(17A) Disqualification.

11.10(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;**
- b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;**
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;**
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;**
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;**
- f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or**
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.**

11.10(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a. General direction and supervision of assigned investigators;**
- b. Unsolicited receipt of information which is relayed to assigned investigators;**
- c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or**
- d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.**

11.10(3) Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3), and subrules 11.10(3) and 11.22(9).

11.10(4) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

11.10(5) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.10(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board will determine the matter as part of the record in the case.

645—11.11(17A) Consolidation—severance.

11.11(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

- a.* The matters at issue involve common parties or common questions of fact or law;
- b.* Consolidation would expedite and simplify consideration of the issues involved; and
- c.* Consolidation would not adversely affect the rights of any of the parties to those proceedings.

11.11(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

645—11.12(17A) Pleadings.

11.12(1) Pleadings. Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

11.12(2) Answer. An answer will be filed within 20 days of service of the statement of charges and notice of hearing.

a. An answer will:

- (1) Identify on whose behalf it is filed;
- (2) Set forth the name, address and telephone number of the person filing the answer, the person on whose behalf it is filed, and the attorney, if any, representing that person;
- (3) Specifically admit, deny, or otherwise answer all material allegations of the statement of charges; and
- (4) Set forth any facts deemed necessary to show an affirmative defense and contain as many additional defenses as the respondent may claim.

b. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

11.12(3) Amendments. Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

645—11.13(17A) Service and filing.

11.13(1) Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

11.13(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person’s last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

11.13(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding will be filed with the board. All documents that are required to be served upon a party will be filed simultaneously with the board.

11.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of _____ Examiners, Board Administrator, Lucas State Office Building, Des Moines, Iowa 50319; delivered to an established courier service for immediate delivery to that office; or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

11.13(5) *Proof of mailing.* Proof of mailing includes:

- a. A legible United States Postal Service postmark on the envelope, or
- b. A certificate of service, or
- c. A notarized affidavit, or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the _____ Board, and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).

(Date) (Signature)

645—11.14(17A) Discovery.

11.14(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure.

11.14(2) Any motion relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.14(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

11.14(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

645—11.15(17A,272C) Subpoenas in a contested case.

11.15(1) Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or may be issued separately.

Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 645—subrule 9.5(1) prior to the issuance of the subpoena.

11.15(2) A request for a subpoena will include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a.* The name, address and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time, and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 645—subrule 9.5(1) have been satisfied.

11.15(3) Each subpoena will contain, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address and telephone number of the board administrator or designee;
- j.* The date of issuance; and
- k.* A return of service.

11.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will mail the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

11.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before

the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits..

11.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

11.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

11.15(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

645—11.16(17A) Motions.

11.16(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

11.16(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

11.16(3) The presiding officer may schedule oral argument on any motion.

11.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

645—11.17(17A) Prehearing conferences.

11.17(1) Any party may request a prehearing conference. Prehearing conferences will be conducted by the board administrator, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

11.17(2) The parties at a prehearing conference will be prepared to discuss the following subjects, and the board administrator or administrative law judge may issue appropriate orders concerning:

- a.* The possibility of settlement.
- b.* The entry of a scheduling order to include deadlines for completion of discovery.
- c.* Stipulations of law or fact.
- d.* Stipulations on the admissibility of exhibits.
- e.* Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing

conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.

g. Stipulations for waiver of any provision of law.

h. Identification of matters which the parties intend to request be officially noticed.

i. Consideration of any additional matters which will expedite the hearing.

11.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

645—11.18(17A) Continuances.

11.18(1) Applications for continuances will be filed with the board. If the application for continuance is not contested, the board administrator will issue the appropriate order. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge.

11.18(2) A written application for a continuance will:

a. Be made at the earliest possible time and no less than five working days before the hearing. Within five working days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency circumstances;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

11.18(3) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal settlement;

e. The existence of an emergency;

f. Any objection;

g. Any applicable time requirements;

h. The existence of a conflict in the schedules of counsel, parties, or witnesses;

- i.* The timeliness of the request; and
- j.* Other relevant factors.

645—11.19(17A,272C) Hearing procedures.

11.19(1) The presiding officer will have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

11.19(2) All objections will be timely made and stated on the record.

11.19(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at their own expense.

11.19(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

11.19(5) The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.19(6) Witnesses may be sequestered during the hearing.

11.19(7) The presiding officer will have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

11.19(8) The presiding officer will conduct the hearing in the following manner:

- a.* The presiding officer will give an opening statement briefly describing the nature of the proceedings;
- b.* The parties will be given an opportunity to present opening statements;
- c.* The parties will present their cases in the sequence determined by the presiding officer;
- d.* Each witness will be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;
- e.* When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

11.19(9) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

11.19(10) The hearing will be open to the public unless the licensee requests that the hearing be closed.

645—11.20(17A) Evidence.

11.20(1) The presiding officer will rule on admissibility of evidence and may, where appropriate, take official

notice of facts in accordance with all applicable requirements of law.

11.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

11.20(3) Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

11.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

11.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

11.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

11.20(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence which may or would be inadmissible in a jury trial.

645—11.21(17A) Default.

11.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

11.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

11.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

11.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

11.21(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on

the issue prior to a decision on the motion, if a request to do so is included in that party's response.

11.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

11.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 11.24(17A).

11.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

11.21(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 11.26(17A).

645—11.22(17A) Ex parte communication.

11.22(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

11.22(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

11.22(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

11.22(4) To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 11.6(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

11.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

11.22(6) The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

11.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other

deadlines.

11.22(8) A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

11.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

11.22(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

645—11.23(17A) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

645—11.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to do so, the board will consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

645—11.25(17A) Applications for rehearing.

11.25(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

11.25(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires

reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

11.25(3) *Additional evidence.* A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceedings, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding. A written request to present additional evidence must be filed with the application for rehearing or, by a nonappealing party, within 14 days of service of the notice of appeal.

11.25(4) *Filing deadline.* The application will be filed with the board within 20 days after issuance of the final decision.

11.25(5) *Notice to other parties.* A copy of the application will be timely mailed by the applicant to all parties of record not joining therein.

11.25(6) *Disposition.* Any application for a rehearing will be deemed denied unless the agency grants the application within 20 days after its filing.

11.25(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

11.25(8) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

645—11.26(17A) Stays of agency actions.

11.26(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

11.26(2) *When granted.* In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5) “c.”.

11.26(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

645—11.27(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

645—11.28(17A) Emergency adjudicative proceedings.

11.28(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order

in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order.

11.28(2) Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

11.28(3) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency; or

(4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

11.28(4) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

11.28(5) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

645—11.29(17A) Appeal. Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

645—11.30(272C) Publication of decisions. Final decisions of the board in a contested case will be transmitted to the appropriate association, the news media, and the employer.

645—11.31(272C) Reinstatement.

11.31(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

11.31(2) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

11.31(3) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

11.31(4) An application for reinstatement will allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

11.31(5) An order of reinstatement will be based upon a decision which incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

645—11.32(17A,272C) License denial.

11.32(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing will specifically delineate the facts to be contested at hearing.

11.32(2) All hearings held pursuant to this rule will be held pursuant to the process outlined in this chapter.

These rules are intended to implement Iowa Code chapters 17A and 272C.

645—11.33(17A,272C) Informal settlement.

11.33(1) Informal settlement—parties. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by an assistant attorney general, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board. The full board will not be involved in negotiations until the presentation of a final, written, signed informal settlement to the full board for approval.

11.33(2) Informal settlement—waiver of notice and opportunity to be heard. Consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code chapter 17A during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board’s designee until that consent is expressly withdrawn.

11.33(3) Informal settlement—board approval. All informal settlements are subject to approval of a majority of the board. No informal settlement will be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it will be of no force or effect to either party.

11.33(4) Informal settlement—disqualification of designee. A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

11.33(5) Voluntary surrender. The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	7862 total word count in proposed chapter, but elimination of Chapter 12 in its entirety.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	12	Iowa Code Section Authorizing Rule:	17A,272C
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-12.1 (17A,272C). Informal settlement. The intended benefit of this rule is to provide procedures for negotiation and resolution of a contested case by informal settlement.

Is the benefit being achieved? Please provide evidence.

645-12.1 (17A,272C). Informal settlement. Yes, the intended benefit is being achieved. This rule will be repealed and consolidated into 645-11.

What are the costs incurred by the public to comply with the rule?

645-12.1 (17A,272C). Informal settlement. The licensee may have costs of legal counsel to represent him/her in the negotiations and informal settlement process. There is no cost to the general public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-12.1 (17A,272C). Informal settlement. The agency incurs costs of employing board staff and the board member to participate in the negotiations.

Do the costs justify the benefits achieved? Please explain.

645-12.1 (17A,272C). Informal settlement. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed and consolidated into Rule 645-11.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and consolidating with another chapter reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is now part of Rule 645-11.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-12: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	298
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	DIAL	Date:	8/25/23	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 13	Iowa Code Section Authorizing Rule:	Iowa Code chapters 21.7, 272C.4, 272C.5, 272C.6
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to Iowans because it publically defines required professional standards for the 19 boards represented in this chapter. This includes the following Boards: Hearing Aid Specialist Board, Speech Pathology & Audiology Board, Nursing Home Administrator Board, Optometry Board, Sign Language Interpreters & Transliterators Board, Barbering & Cosmetology Arts Sciences Board, Physical & Occupational Therapy Board, Athletic Training Board, Mortuary Science Board, Physician Assistants Board, Chiropractic Board, Behavioral Science Board, Psychology Board, Social Work Board, Podiatry Board, Massage Therapy Board, Dietetics Board and the Respiratory Care Board. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, and to reduce redundant language, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are standard to the regulated professions and are therefore covered in this general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

Discipline allows for action to be taken against licensees found to have violated the requirements of their profession. In 2022 the 19 Boards in the legacy HHS Bureau of Professional Licensure received 322 complaints and issued 28 public discipline orders. In 2021 the Boards received 352 complaints and issued 42 public discipline orders. These Boards regulate professions with skilled scopes of practice that could harm the public if not regulated.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rules in this chapter include professional competency, so there would be a cost to the practitioner in taking the needed time to remain competent in their field which may include reviewing medical journals, researching best practices, etc. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. Five full-time executive officers support the full scope of work of the boards regulated in IAC 645. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, practice competency, board meeting administration, etc. Additionally these 19 boards employ one full-time investigator. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

In order to regulate the professions as directed in statute, discipline authority and action are critical to protecting the public safety. Discipline ensures corrective action of licensees not abiding by requirements established to reduce harm to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Boards have not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating grounds for discipline, but the Boards believe that these requirements are important in order to ensure that Iowans receive services from competent practitioners.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule, eliminate the obsolete provisions of the rule, and combine standard provisions into this one chapter in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed, and what was added to allow standardization and removal from the profession specific chapters leading to an overall reduction of words in Administrative Code.

Create new rule with standard definitions referring back to Iowa Code.

Create new rule establishing standard grounds for discipline for professions regulated in IAC 645.

13.1 Remove duplicative/unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

13.3 Rescind entirely as unnecessary language.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 13 DISCIPLINE

645—13.1 Definitions.

“Board” means a professional licensing board established pursuant to Iowa Code chapter 147.

“Licensee Discipline” is defined in 272C.1

“Licensee” means a person licensed under Iowa Code chapter 147.

645—13.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section (272C.3) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in Iowa Code section 147.55:

13.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

- a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or
- b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

13.2(3) Professional incompetence. Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to perform professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other licensees in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average licensees acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensee in this state.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

13.2(4) Practice outside the scope of the profession.

13.2(5) Habitual intoxication or addiction to the use of drugs, including:

- a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

13.2(6) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

13.2(7) Falsification, alteration or destruction of client or patient records with the intent to deceive.

13.2(8) Acceptance of any fee by fraud or misrepresentation.

13.2(9) Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

13.2(10) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

13.2(11) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of the profession.

13.2(12) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

13.2(13) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice in another state, district, territory or country.

13.2(14) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

13.2(15) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

13.2(16) Engaging in any conduct that subverts or attempts to subvert a board investigation.

13.2(17) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

13.2(18) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

13.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

13.2(20) Failure to pay costs assessed in any disciplinary action.

13.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

13.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

13.2(23) Knowingly aiding, assisting, or advising a person to unlawfully practice the profession.

13.2(24) Failure to report a change of name or address within 30 days after it occurs.

13.2(25) Representing oneself as a licensee when one's license has been suspended or revoked, or when one's license is on inactive status.

13.2(26) Permitting another person to use the licensee's license for any purpose.

13.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice the profession.

13.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

13.2(29) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

13.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—13.3(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions as defined in 272C.3, and as follows:

1. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
2. Such other sanctions allowed by law.

645—13.2(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating facts or other countervailing considerations.
4. The number of prior violations or complaints.
5. The seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	1326 total word count in proposed chapter, but elimination of duplication throughout individual profession discipline chapters.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3 repealed through 13.3 elimination

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	DIAL	Date:	8/28/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 14	Iowa Code Section Authorizing Rule:	2020 Iowa Acts, HF 2627
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

These rules clarify the pathway to potential licensure for individuals with criminal convictions. The requirements set out in rule ensure a streamlined pathway while protecting the public through criteria which allows the board to review the complete criminal record, evidence of rehabilitation, and other information when making a determination on eligibility for licensure.

These rules implemented recent legislation, 2020 Iowa Acts, House File 2627.

Is the benefit being achieved? Please provide evidence.

DIAL is unable to pull a report from the licensing database on the number of individuals with a criminal conviction who have been issued a license, but multiple individuals with prior criminal convictions have been licensed. These rules, as directed by the legislation, open up career opportunities for individuals with criminal convictions that may not have previously existed.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, there are costs to the licensee. If an individual would like to petition the board for an eligibility waiver prior to completing a license application to determine if the individual’s convictions are disqualifying offenses, a person may petition the board. There is \$25 fee associated with this determination. Licensing fees depend on the profession, but application fees are established in IAC 625.5.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to process the license applications and eligibility determination petitions. The DIAL - Licensing Division employs 5 FTEs dedicated to processing all licensure applications for those professions regulated in IAC 645. If an application needs higher review, it is sent on to a board executive and the Attorney General’s Office.

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

In order to regulate the professions as directed in statute, discipline authority and action are critical to protecting the public safety. Discipline ensures corrective action of licensees not abiding by requirements established to reduce harm to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Boards have not identified a less restrictive alternative to the requirements for use of criminal convictions in eligibility determinations and initial licensing decisions as these rules set the pathway for licensure of an individual with criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

While these rules were recently promulgated, the Board is leveraging this opportunity to remove duplication between statute and rule, eliminate the obsolete provisions of the rule, and combine standard provisions into this one chapter in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

14.2 Remove duplicative/unnecessary language.

14.3 Remove unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 14
USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING
DECISIONS

645—14.1(272C) Definitions.

“Complete criminal record” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“Conviction” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“Disqualifying offense” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either

- (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or
- (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“License” means any license, registration, or permit issued by the board.

[[ARC 5751C](#), IAB 7/14/21, effective 8/18/21]

645—14.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule [645—14.3\(272C\)](#), the applicant’s convictions will be reviewed when the board receives a completed license application.

14.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

14.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

14.2(3) An applicant must submit all evidence of rehabilitation that the applicant wishes to be considered by the board.

14.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section [272C.15](#).

14.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

14.2(6) Any application fees paid will not be refunded if the license is denied.

[[ARC 5751C](#), IAB 7/14/21, effective 8/18/21]

645—14.3(272C) Eligibility determination.

14.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure.

14.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner’s convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

[[ARC 5751C](#), IAB 7/14/21, effective 8/18/21]

645—14.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

14.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

14.4(2) The contested case hearing shall be closed to the public, and the board’s review of a proposed decision shall occur in closed session.

14.4(3) The office of the attorney general shall represent the board’s initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant’s convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

14.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter [17A](#).

[[ARC 5751C](#), IAB 7/14/21, effective 8/18/21]

645—14.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner

may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

[[ARC 5751C](#), IAB 7/14/21, effective 8/18/21]

These rules are intended to implement 2020 Iowa Acts, House File 2627.

[[Filed ARC 5751C](#) ([Notice ARC 5367C](#), IAB 12/30/20), IAB 7/14/21, effective 8/18/21]

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1005-978=27
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/30/2023	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	645-16	Iowa Code Section Authorizing Rule:	272C.3(1)(k)
Contact Name:	Jill Stuecker	Email:	jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645—16.1(272C) Definitions. The intended benefit of this rule is to define terms used in this chapter.

645—16.2(272C) Purpose. The intended benefit of this rule is to explain the purpose of the impaired practitioner review committee and how they support the recovery or rehabilitation of licensees being monitored.

645—16.3(272C) Composition of the committee. The intended benefit of this rule is to explain the composition of the impaired practitioner review committee. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment; a licensed practitioner who has expertise in the diagnosis and treatment of psychological disorders and disabilities; a specialty board-certified psychiatrist; a licensee who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program; a licensed physician, physician assistant or advanced registered nurse practitioner whose specialty area is family practice or who has expertise in neurological disorders. The goal of this composition is to ensure the committee has expertise in medicine, addiction, disability, and /or recovery.

645—16.4(272C) Eligibility. The intended benefit of this rule is to explain the criteria for licensee participation in the impaired practitioner recovery program as required by Iowa Code section 272C.3(1)(k). Because this program is confidential, and participation is not a matter of public record, specific eligibility criteria must be met to ensure that matters which may need to be addressed by the Board are routed appropriately.

645—16.5(272C) Terms of participation in the impaired practitioner recovery program. The intended benefit of this rule is to explain the licensee’s terms of participation in the impaired practitioner recovery program. Substantively, the goal of the terms of participation are to ensure that a licensee is safe to practice their profession, through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract gives the committee the authority to make a referral to the Board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public the committee may place immediate practice restrictions on the licensee.

645—16.6(272C) Confidentiality. The intended benefit of this rule is to explain the governing confidentiality provisions required by Iowa Code sections 272C.3(1)(k) and 272C.6. All information related to participation in this program is confidential, including names of participants.

645.16.7(272C) Terms of participation. The intended benefit of this rule is to establish requirements of participation.

645-16.8(272C) Noncompliance. The intended benefit of this rule is to establish consequences of noncompliance.

645-16.9(272C) Practice restrictions. The intended benefit of this rule is to establish there may be practice restrictions put in place as a condition of participation. In the case this restriction is taken, it is done in an effort to ensure the licensee can focus on their personal treatment and to protect the public.

645-16.10(272C) Limitations. The intended benefit of the rule is to establish potential limitations to the

645-16.11(272C) Confidentiality. The intended benefit of the rule is to establish confidentiality requirements of the program, which exist in Iowa Code.

Is the benefit being achieved? Please provide evidence.

The annual caseload is roughly 15-20 participants with 2-3 people graduating from the program each year. Contracts are generally 3-5 years with a host of monitoring requirements. This program offers licensees an opportunity to receive treatment and, if they graduate, regain full privileges of licensure.

What are the costs incurred by the public to comply with the rule?

No public costs are incurred. There are costs to the licensee. In order to be eligible for the program a licensee must have a diagnosed impairment. This is often determined through a substance abuse or other type of evaluation to assess the potential impairment. Evaluations are conducted at the expense of the licensee.

The terms of the contract set forth requirements the licensee must meet in order to participate in the program. This could include requirements to see a therapist, random drug screens, alcoholics' anonymous meetings, etc. Requirements are based on the eligibility evaluation, as well as the unique needs of each licensee. Any contract requirements are conducted at the expense of the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The impaired practitioner program gives licensees an opportunity to receive the treatment they need and be rehabilitated. This sets licensees who complete the program up to safely and successfully continue their practice, benefitting the public and licensee alike.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This program is less restrictive than discipline because it's not punitive in nature and is confidential. It provides the ability for individuals dealing with impairment to heal privately while simultaneously be monitored by a qualified group of professionals to ensure the public is protected. At this time, the Boards

have not identified a less restrictive alternative for the impaired practitioner program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, the following rules within chapter have a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

645—16.1(272C) Definitions.

645—16.3(272C) Composition of the committee.

645—16.4(272C) Eligibility.

645—16.5(272C) Terms of participation in the impaired practitioner recovery program.

645—16.6(272C) Confidentiality.

Rules should be renumbered as necessary.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645—16.2(272C) Purpose – This information is redundant.

645—16.4(272C) Organization of the committee – This information was consolidated under 16.3.

645—16.6(272C) Meetings – This information is redundant and is outlined in Iowa Code, Chapter 22.7.

645—16.8(272C) Noncompliance – This section was consolidated under 16.5.

645—16.9(272C) Practice restrictions – This section was consolidated under 16.5.

645—16.10(272C) Limitations – This section was consolidated under 16.4.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER XX
IOWA PROFESSIONALS REVIEW COMMITTEE

645—16.1 (272C) Definitions.

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program.

“*Initial agreement*” means the written document establishing the initial terms for participation in the impaired practitioner program.

“*IPRC*” or “*committee*” means the impaired practitioner review committee.

“*Participant*” means an applicant or person licensed under Iowa Code chapter 147, 153, 154A, 154E, 155, or 155A who self-reports a potential impairment to the program, is referred to the program by the board, or signs an initial agreement or contract with the committee.

“*Self-report*” means written notification provided by the licensee to the board or committee that the licensee has been, is, or may be impaired. Information relative to impairment or a potential impairment provided on a license application or a renewal form may be considered a self-report. A self-report can be received even if the applicable licensing board has received a complaint or a third party has alleged the same.

645—16.3 (272C) Composition of the committee. The Division of Licensing shall appoint members of the committee.

16.3.(1) Membership. The committee may be composed of, but not limited to, members with the following qualifications:

- a. A licensed practitioner who has expertise in the area of substance abuse and addiction treatment.
- b. A licensed practitioner who has expertise in the diagnosis and treatment of psychological disorders and disabilities.
- c. A specialty board-certified psychiatrist who holds a current, active Iowa license as defined in 653—9.1(147,148,150,150A).
- d. A licensee who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program; board-ordered probation for drug or alcohol dependency, addiction or abuse; or an impaired practitioner review committee contract.
- e. An Iowa licensed physician, a physician assistant or an advanced registered nurse practitioner (ARNP) whose specialty area is family practice or who has expertise in neurological disorders.
- f. A board of pharmacy specialties certified psychiatric pharmacist who holds a current, active Iowa pharmacist license.
- g. An at-large public member.
- h. The board administrator for professional licensure or designee.

16.3 (2) Officers. At the last meeting of each calendar year, the committee shall elects co-chairpersons to serve a one-year term beginning January 1.

a. A chairperson, in consultation with counsel, may offer guidance and direction to staff between regularly scheduled committee meetings concerning program descriptions, interim restrictions on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion.

16.3 (3) Terms. Committee members are appointed to a three-year term, for a maximum of three terms. Each term expires on December 31 of the third year of the term. Initial terms are for a period of one to three years as designated by the division to provide continuity to the committee.

16.4 (272C) Eligibility.

16.4(1) To be eligible for participation in the program, an applicant or licensee must self-report or be referred by the board for an impairment or suspected impairment. The committee will determine for each self-report or referral whether the applicant or licensee is an appropriate candidate for participation in the program or ineligible if the committee finds sufficient evidence that the applicant or licensee:

- a. Diverted medication for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with medication intended for a patient;
- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the committee;
- d. Participated in the program, or a similar program offered by another state, without success;
- e. Failed to sign an initial agreement or a contract when offered by the committee; or
- f. Caused injury or harm to a patient or client.

16.4(2) Discretion. Eligibility of a person to participate in the program is at the sole discretion of the committee. No person is entitled to participate in the program.

16.4(3) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the program. Participation in the program shall not relieve the licensee's board of any duties or divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action.

16.5 (272C) Terms of participation. A participant is responsible for complying with the terms of participation established in the initial agreement and the contract, and for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

16.5(1) Duration. The length of participation in the program is determined by the committee and will vary depending upon the recommendations of an approved evaluator and review of all relevant information.

16.5(2) Noncompliance. Participants are responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the participant, a monitoring provider, or another party may result in notice to the board for the filing of formal charges or other action the board deems appropriate.

16.5(3) Practice restrictions. The IPRC may impose practice restrictions on a participant as a term of the initial agreement or contract until such time as an approved evaluator and the IPRC determines, based on all relevant information, that the participant is capable of practicing with reasonable safety and skill. Participation in the program requires that participants agree to restrict practice in accordance with a request from the IPRC. If a participant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee will refer the practitioner to the board for appropriate action.

16.6(272C) Confidentiality. Information in the possession of the board or the committee is subject to the confidentiality

requirements of Iowa Code section 272C.6.

16.6(1) Program participants must report their participation to the applicable monitoring program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

16.6(2) The committee is authorized to communicate information about a participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

16.6(3) The committee is authorized to communicate information about a program participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 16.5 (272C). The committee may provide the board with a participant's program file when the committee refers the case to the board for noncompliance. If the board initiates disciplinary action against a licensee as a result of the noncompliance, the board may include in the public disciplinary documents information about a licensee's participation in the program.

16.6(4) The committee is authorized to communicate information about a current or former program participant to the board if reliable information held by the committee reasonably indicates that a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	1545-1230=315
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	30

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	DIAL	Date:	7/19/23	Total Rule Count:	1
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 17	Iowa Code Section Authorizing Rule:	Iowa Code chapter 147
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Define materials for board review.

Is the benefit being achieved? Please provide evidence.

No, this is an internal process that does not need to be in Administrative Code.

What are the costs incurred by the public to comply with the rule?

There are no costs incurred by the public.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no costs incurred by DIAL to implement this.

Do the costs justify the benefits achieved? Please explain.

While there are no costs, this rule is unnecessary.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter reduces restrictive text in Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, the Department proposes fully repealing this chapter.

RULES PROPOSED FOR REPEAL (list rule number[s]):

17.1: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	62
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:		Total Rule Count:	
IAC #:	645	Chapter/ SubChapter/ Rule(s):	18	Iowa Code Section Authorizing Rule:	17A, 147,272C
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-18.1 (17A,147,272C). Definitions. The intended benefit of this rule is provide definitions for use of this rule chapter.

645-18.2 (17A,147,272C). Scope of chapter. The intended benefit of this rule is to provide an overview of what the chapter provides.

645-18.3 (17A,147,272C). Applicability of chapter. The intended benefit of this rule is to state when the board is able to grant a waiver.

645-18.4 (17A,147,272C). Criteria for waiver or variance. The intended benefit of this rule is to state the necessary criteria for the board to issue an order waiving any requirements of a rule.

645-18.5 (17A,147,272C). Filing of petition. The intended benefit of this rule is to provide licensees with information on how to file a petition for waiver.

645-18.6 (17A,147,272C). Content of petition. The intended benefit of this rule is to provide licensees with the information of what must be contained in a petition for waiver.

645-18.7 (17A,147,272C). Additional information. The intended benefit of this rule is for the board to be able to request additional information from the licensee related to the petition for waiver.

645-18.8 (17A,147,272C). Notice. The intended benefit of this rule it to require the board to acknowledge a petition for waiver and ensure that notice of the pending petition and summary of its contents is provided to all persons required by law within 30 days.

645-18.9 (17A,147,272C). Hearing procedures. The intended benefit of this rule is to provide guidance on the procedures for hearings on a petition for waiver.

645-18.10 (17A,147,272C). Ruling. The intended benefit of this rule is to provide the board's ruling on a petition in writing, provide for board discretion in granting or denying a petition, and timelines for the waiver and filing of the ruling.

645-18.11 (17A,147,272C). Public availability. The intended benefit of this rule is to require all orders granting or denying a waiver petition to be filed and available for the public, except for those which the board is authorized or required to keep confidential.

645-18.12 (17A,147,272C). Summary reports. The intended benefit of this rule is for the board to prepare and provide reports semiannually of the rules for which a waiver has been granted or denied, the number of times the waiver was granted or denied, statutory provisions implemented by these rules and a general summary justifying the boards actions.

645-18.13 (17A,147,272C). Cancellation of a waiver. The intended benefit of this rule is to allow the board to cancel, withdraw or modify a waiver and provides the circumstances in which the board can cancel, withdraw or modify a waiver.

645-18.14 (17A,147,272C). Violations. The intended benefit of this rule is to inform the licensee that a violation of a condition in a waiver is treated as a violation of the rule for which the waiver was granted and may subject the licensee to the same remedies/penalties as a person who violates the rule.

645-18.15 (17A,147,272C). Defense. The intended benefit of this rule is to state that when a waiver is granted, the order granting the waiver becomes a defense of the licensee in any proceeding in which the rule in question is sought to be invoked.

645-18.16 (17A,147,272C). Judicial review. The intended benefit of this rule allow for judicial review of the board's decision to grant or deny a waiver petition pursuant to Iowa Code Chapter 17A.

Is the benefit being achieved? Please provide evidence.

645-18.1 (17A,147,272C). Definitions. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.2 (17A,147,272C). Scope of chapter. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.3 (17A,147,272C). Applicability of chapter. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.4 (17A,147,272C). Criteria for waiver or variance. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.5 (17A,147,272C). Filing of petition. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.6 (17A,147,272C). Content of petition. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.7 (17A,147,272C). Additional information. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.8 (17A,147,272C). Notice. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.9 (17A,147,272C). Hearing procedures. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.10 (17A,147,272C). Ruling. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.11 (17A,147,272C). Public availability. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.12 (17A,147,272C). Summary reports. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.13 (17A,147,272C). Cancellation of a waiver. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.14 (17A,147,272C). Violations. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.15 (17A,147,272C). Defense. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

645-18.16 (17A,147,272C). Judicial review. Yes, the intended benefit is being achieved. This rule will be repealed and a new general chapter, applicable to all of DIAL, will be created to perform the same intended benefit of this rule.

What are the costs incurred by the public to comply with the rule?

645-18.1 (17A,147,272C). Definitions. N/A

645-18.2 (17A,147,272C). Scope of chapter. There is no cost to the public to comply with this rule.

645-18.3 (17A,147,272C). Applicability of chapter. There is no cost to the public to comply with this rule.

645-18.4 (17A,147,272C). Criteria for waiver or variance. There is no cost to the public to comply with this rule.

645-18.5 (17A,147,272C). Filing of petition. There is no cost to the public to comply with this rule.

645-18.6 (17A,147,272C). Content of petition. There is no cost to the public to comply with this rule.

645-18.7 (17A,147,272C). Additional information. There is no cost to the public to comply with this rule.

645-18.8 (17A,147,272C). Notice. There is no cost to the public to comply with this rule.

645-18.9 (17A,147,272C). Hearing procedures. There is no cost to the public to comply with this rule.

645-18.10 (17A,147,272C). Ruling. There is no cost to the public to comply with this rule.

645-18.11 (17A,147,272C). Public availability. There is no cost to the public to comply with this rule.

645-18.12 (17A,147,272C). Summary reports. There is no cost to the public to comply with this rule.

645-18.13 (17A,147,272C). Cancellation of a waiver. There is no cost to the public to comply with this rule.

645-18.14 (17A,147,272C). Violations. There is no cost to the public to comply with this rule. The licensee could incur penalties though if a rule is violated.

645-18.15 (17A,147,272C). Defense. There is no cost to the public to comply with this rule.

645-18.16 (17A,147,272C). Judicial review. There is no cost to the public to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

645-18.1 (17A,147,272C). Definitions. N/A

645-18.2 (17A,147,272C). Scope of chapter. N/A

645-18.3 (17A,147,272C). Applicability of chapter. N/A

645-18.4 (17A,147,272C). Criteria for waiver or variance. N/A

645-18.5 (17A,147,272C). Filing of petition. The agency incurs costs of board staff to receive the petitions and provide notices. Additionally, the petition has to be brought before the board which incurs costs for the payment of board members mileage and per diem (\$50/day for actual board business).

645-18.6 (17A,147,272C). Content of petition. There is no cost to the agency.

645-18.7 (17A,147,272C). Additional information. The agency incurs costs of board staff. Any official business of the board members is also paid at \$50/day.

645-18.8 (17A,147,272C). Notice. The agency incurs costs of the board staff to send out the notices to the required persons.

645-18.9 (17A,147,272C). Hearing procedures. The agency incurs costs of board staff to prepare for the hearing. Board members are paid mileage to attend hearings and a per diem for official board business (\$50/day).

645-18.10 (17A,147,272C). Ruling. The agency incurs costs of the board staff to prepare the rulings and the time of the board members.

645-18.11 (17A,147,272C). Public availability. There is no cost to the agency.

645-18.12 (17A,147,272C). Summary reports. The agency incurs costs of board staff to prepare the summary reports.

645-18.13 (17A,147,272C). Cancellation of a waiver. The agency incurs costs of the board staff and board members.

645-18.14 (17A,147,272C). Violations. The agency incurs costs of the board staff, board members and potentially investigation costs if a violation occurs.

645-18.15 (17A,147,272C). Defense. There is no cost to the agency.

645-18.16 (17A,147,272C). Judicial review. There is no cost to the agency.

Do the costs justify the benefits achieved? Please explain.

645-18.1 (17A,147,272C). Definitions. N/A

645-18.2 (17A,147,272C). Scope of chapter. N/A

645-18.3 (17A,147,272C). Applicability of chapter. N/A

645-18.4 (17A,147,272C). Criteria for waiver or variance. N/A

645-18.5 (17A,147,272C). Filing of petition. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.6 (17A,147,272C). Content of petition. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.7 (17A,147,272C). Additional information. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.8 (17A,147,272C). Notice. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.9 (17A,147,272C). Hearing procedures. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.10 (17A,147,272C). Ruling. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.11 (17A,147,272C). Public availability. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.12 (17A,147,272C). Summary reports. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.13 (17A,147,272C). Cancellation of a waiver. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.14 (17A,147,272C). Violations. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.15 (17A,147,272C). Defense. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform Waiver Rules," which is substantially similar to 645—Chapter 18.

645-18.16 (17A,147,272C). Judicial review. Yes, the costs justify the benefits achieved. While the costs are justified by the benefits achieved, this rule is being repealed to be replaced by a general chapter encompassing all of DIAL in alignment with the new organization. In light of the board's realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, "Uniform

Waiver Rules,” which is substantially similar to 645—Chapter 18.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all of DIAL reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. This chapter is encompassed by the general rules chapter of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-18: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	16
Proposed word count reduction after repeal and/or re-promulgation	1,928
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	DIAL	Date:	8/28/23	Total Rule Count:	2
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 19	Iowa Code Section Authorizing Rule:	2020 Iowa Acts, HF 2627
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.650.0189

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides direction on additional pathways to licensure for lowans. This presents an alternative pathway to licensure, which streamlines the process for individuals who are licensed in another state to be licensed in Iowa. The requirements set out in rule ensure a streamlined pathway while protecting the public through criteria for licensees with prior discipline, proof of residency, and work experience.

These rules implemented recent legislation, 2020 Iowa Acts, House File 2627.

Is the benefit being achieved? Please provide evidence.

There is no way for DIAL to know exactly how many licensees have been licensed by verification as the licensing database does not differentiate between traditional licensure and alternative pathways. An estimated 35 licensees have been successfully licensed by verification since the inception of the statute.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, there are costs to the licensee. Costs depend on the profession, but application fees are established in IAC 625.5.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to process license applications. The DIAL - Licensing Division employs 5 FTEs dedicated to processing all licensure applications for those professions regulated in IAC 645. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

In order to regulate and license the professions as directed in statute, base standards for licensure are critical to protecting the public safety.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Boards have not identified a less restrictive alternative to the requirements for licensure by verification as these rules already reflect a streamlined licensure process.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

The Board is leveraging this opportunity to remove duplication between statute and rule, eliminate the obsolete provisions of the rule, and combine standard provisions into this one chapter in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 19.1 Remove duplicative/unnecessary language.
- 19.2 Remove unnecessarily prescriptive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 19
LICENSURE BY VERIFICATION AND OF APPLICANTS WITH WORK EXPERIENCE

645—19.1(272C) Licensure by verification. Licensure by verification is available in accordance with the following.

19.1(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, and either:

- a. The person establishes residency in the state of Iowa; or
- b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

19.1(2) Board application. The applicant must submit the following:

- a. A completed application.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. An attestation that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12.
- e. Proof of residency in the state of Iowa or proof of military member's official permanent change of station.
- f. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.
- g. A written statement from the applicant detailing the scope of practice in the other state.
- h. Copies of relevant laws setting forth the scope of practice in the other state.

19.1(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

19.1(4) Applicants with pending licensing complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

19.1(5) Compact privileges. A person who has a privilege to practice in Iowa by virtue of an interstate licensure compact

is ineligible for licensure by verification. Licenses issued pursuant to this rule do not grant privileges to practice in any other jurisdiction pursuant to any interstate licensure compact.
[ARC 5751C, IAB 7/14/21, effective 8/18/21]

645—19.2(272C) Applicants with work experience in jurisdictions without licensure requirements.

19.2(1) Work experience. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial licensure. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

19.2(2) Required documentation. An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of proving all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency;
- b. Proof of three or more years of work experience within the four years preceding the application for licensure,
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	942-693=249
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	20	Iowa Code Section Authorizing Rule:	272C.4
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov ov	Phone:	515-281-7088

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

645-20.1(272C) Definitions. The intended benefit of this rule is to define terms used in this chapter.

645-20.2(272C) Military education, training, and service credit. The intended benefit of this rule is to provide credit towards the requirements of licensure to members of the United States military for their service, training and education received through the military.

645-20.3(272C) Veteran and spouse reciprocity. The intended benefit of this rule is to provide a mechanism for United States veterans and spouses of veterans to apply for and be granted reciprocity for licensing requirements in the State of Iowa.

Is the benefit being achieved? Please provide evidence.

645-20.1(272C) Definitions. Yes, the benefit is being achieved.

645-20.2(272C) Military education, training, and service credit. Yes, the benefit is being achieved.

645-20.3(272C) Veteran and spouse reciprocity. Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

645.20.1(272C) Definitions. N/A

645.20.2(272C) Military education, training, and service credit. No public costs are incurred. There are costs to the licensee if the credit is granted and the licensee move forward with the application for licensure in the State of Iowa.

645.20.3(272C) Veteran and spouse reciprocity. No public costs are incurred. There are costs to the licensee for filing the application for licensure in the State of Iowa.

What are the costs to the agency or any other agency to implement/enforce the rule?

645.20.1(272C) Definitions. N/A

645.20.2(272C) Military education, training, and service credit. No specific costs for implementation or enforcement of this rule outside of the department’s and board’s general task of receiving, reviewing and issuing licenses requests.

645.20.3(272C) Veteran and spouse reciprocity. No specific costs for implementation or enforcement of this rule outside of the department’s and board’s general task of receiving, reviewing and granting reciprocity requests for licensure.

Do the costs justify the benefits achieved? Please explain.

645-20.1(272C) Definitions. N/A

645-20.2(272C) Military education, training, and service credit. While the costs of this rule do justify the benefits received, this entire chapter will be rescinded and added into a general chapter for all departments/divisions of the Department of Inspections, Appeals and Licensing to better encompass the realignment of the agencies. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 7, “Military Service and Veteran Reciprocity,” which is substantially similar to 645—Chapter 20.

645.20.3(272C) Veteran and spouse reciprocity. While the costs of this rule do justify the benefits received, this entire chapter will be rescinded and added into a general chapter for all departments/divisions of the Department of Inspections, Appeals and Licensing to better encompass the realignment of the agencies. In light of the board’s realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this chapter. Rather, DIAL intends to revise and repromulgate 481—Chapter 7, “Military Service and Veteran Reciprocity,” which is substantially similar to 645—Chapter 20.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Yes, eliminating the chapter and creating one general chapter for all divisions reduces the overburdening text of the Administrative Code.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. The language is identical to the language proposed in the general rules for DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645.20: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

**For rules being re-promulgated with changes, you may attach a document with suggested changes.*

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1505
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	60

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	19
IAC #:	645	Chapter/ SubChapter/ Rule(s):	21	Iowa Code Section Authorizing Rule:	158
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule provides definitions, requirements for licensure and examination requirements for barbers, barbershops, instructors and schools in the state.

Is the benefit being achieved? Please provide evidence.

Yes the benefit is being achieved. House File 652 has consolidated the Barber board with the cosmetology board to reduce redundancy in the industry and administrative rules.

What are the costs incurred by the public to comply with the rule?

A licensee incurs costs for the required training and examination to become a licensed barber.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency incurs costs to employ board staff to assist in overseeing the licensees and administering licenses to barbers, barber schools and barbershops. House File 652 has consolidated this board into the cosmetology board to reduce cost to the agency.

Do the costs justify the benefits achieved? Please explain.

No, having a separate board for barbers is not cost effective. The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. In light of the board’s consolidation resulting from HF 652, it is unnecessary and unreasonably duplicative to re-promulgate this chapter. Rather, the division intends to revise and re-promulgate 645—Chapter 60, “*Licensure of Barbers/Cosmetologists, Electrologists, Estheticians, Nail Technologists, and Instructors of Barbering and Cosmetology Arts and Sciences,*” which is substantially similar to 645—Chapter 21.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is being rescinded. The barber chapters have been consolidated and incorporated into the cosmetology chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, IAC 645.21 is being rescinded in full as it is duplicative with HF 652 implementation.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-21: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	19
Proposed word count reduction after repeal and/or re-promulgation	4274
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	21
IAC #:	645	Chapter/ SubChapter/ Rule(s):	22	Iowa Code Section Authorizing Rule:	158
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule provides definitions, requirements for infection control, building standards, personal cleanliness and protocols to ensure control of infection. This rule is intended to protect the health, safety and welfare of the public by requiring barbers and barber shops to adhere to certain protocols to ensure cleanliness of themselves and their shops.

Is the benefit being achieved? Please provide evidence.

House File 652 has consolidated the Barber board with the cosmetology board to reduce redundancy in the industry and administrative rules. The updated chapter will standardize infection control expectations for all professions under the consolidated board.

What are the costs incurred by the public to comply with the rule?

Licensees may incur costs related to infection control responsibilities of the licensee. The Board recognizes that there are associated with infection control protocols and standards, but is unable to assess an actual cost.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency incurs costs to employ board staff to administer this rule. House File 652 has consolidated this board into the cosmetology board. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

No, having a separate board for barbers is not cost effective. The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. In light of the board’s consolidation resulting from HF 652, it is unnecessary and unreasonably duplicative to re-promulgate this chapter. Rather, the division intends to revise and re-promulgate 645—Chapter 63, “*Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences,*” which is substantially similar to 645—Chapter 22.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is being rescinded. The barber chapters have been consolidated and incorporated into the cosmetology chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Rescind IAC 645.22 in full.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-22: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	21
3195	3195
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	16
IAC #:	645	Chapter/ SubChapter/ Rule(s):	23	Iowa Code Section Authorizing Rule:	158, 714.25
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule provides definitions, requirements for licensing barber schools, renewing a license or an inactive license, physical requirements of the school, attendance requirements, apprenticeship and mentoring program. The intended benefit is to ensure all barbers licensed in this state have proper training prior to completing any work on a member of the public.

Is the benefit being achieved? Please provide evidence.

House File 652 has consolidated the Barber board with the cosmetology board to reduce redundancy in the industry and administrative rules.

What are the costs incurred by the public to comply with the rule?

A barber incurs costs to attend barber school. The barber school incurs costs to apply for licensure and renew the license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards. House File 652 has consolidated this board into the cosmetology board to reduce cost to the agency.

Do the costs justify the benefits achieved? Please explain.

No, having a separate board for barbers is not cost effective. The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. In light of the board’s consolidation resulting from HF 652, it is unnecessary and unreasonably duplicative to re0-promulgate this chapter. Rather, the division intends to revise and re-promulgate 645—Chapter 61, “*Licensure of Establishments and Schools of Barbering and Cosmetology Arts and Sciences,*” which is substantially similar to 645—Chapter 23.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is being rescinded. The barber chapters have been consolidated and incorporated into the cosmetology chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Rescinding IAC 645.23 reduces redundancies and standardizes infection control standards for all licensees of the Board of Barbering and Cosmetology Arts & Sciences.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-23: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	16
Proposed word count reduction after repeal and/or re-promulgation	2,472
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	24	Iowa Code Section Authorizing Rule:	272C, 158
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule provides definitions, requirements for continuing education and standards. The intended benefit is to protect the public health, safety and welfare by ensuring that all barbers are up to date on the latest techniques and protocols for the industry.

Is the benefit being achieved? Please provide evidence.

Yes the benefit is being achieved. House File 652 has consolidated the Barber board with the cosmetology board to reduce redundancy in the industry and administrative rules.

What are the costs incurred by the public to comply with the rule?

A barber may incur costs to complete the required continuing education courses.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency incurs costs to employ board staff to administer this rule. House File 652 has consolidated this board into the cosmetology board to reduce cost to the agency.

Do the costs justify the benefits achieved? Please explain.

No, having a separate board for barbers is not cost effective. The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. In light of the board’s consolidation resulting from HF 652, it is unnecessary and unreasonably duplicative to re-promulgate this chapter. Rather, the division intends to revise and re-promulgate 645—Chapter 64, “Continuing Education for Barbering and Cosmetology Arts and Sciences,” which is substantially similar to 645—Chapter 24.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is being rescinded. The barber chapters have been consolidated and incorporated into the cosmetology chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, which is why the Division is proposing rescinding in full as this regulation is accounted for in IAC 645.64.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-24: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

No

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	10
Proposed word count reduction after repeal and/or re-promulgation	1116
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	8/29/2023	Total Rule Count:	31
IAC #:	645	Chapter/ SubChapter/ Rule(s):	25	Iowa Code Section Authorizing Rule:	158
Contact Name:	Jill Stuecker	Email:	Jill.stuecker@dia.iowa.gov	Phone:	515-281-6935

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule provides definitions, grounds for discipline, methods of discipline and discretion of the board on discipline. The intended benefit of this rule is to put the public and licensees on notice of what constitutes grounds for discipline and the methods of discipline the board can utilize.

Is the benefit being achieved? Please provide evidence.

Yes the benefit is being achieved. House File 652 has consolidated the Barber board with the cosmetology board to reduce redundancy in the industry and administrative rules.

What are the costs incurred by the public to comply with the rule?

A barber may incur costs related to defending themselves should a ground discipline be alleged.

What are the costs to the agency or any other agency to implement/enforce the rule?

The agency incurs costs to employ board staff to administer this rule. House File 652 has consolidated this board into the cosmetology board to reduce cost to the agency.

Do the costs justify the benefits achieved? Please explain.

No, having a separate board for barbers is not cost effective. The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. In light of the board’s consolidation resulting from HF 652, it is unnecessary and unreasonably duplicative to re-promulgate this chapter. Rather, the Division intends to revise and re-promulgate 645—Chapter 65, “Discipline for Barbering and Cosmetology Arts and Sciences Licensees, Instructors Salons and Schools,” which is substantially similar to 645—Chapter 25 and provides for a uniform rule for all professions regulated by the same Board.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

This rule is being rescinded. The barber chapters have been consolidated and incorporated into the cosmetology chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

RULES PROPOSED FOR REPEAL (list rule number[s]):

645-25: Rescind in full.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	31
Proposed word count reduction after repeal and/or re-promulgation	1671
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	all

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Behavioral Science	Date:	08/17/2023	Total Rule Count:	19
IAC #:	645	Chapter/ SubChapter/ Rule(s):	31	Iowa Code Section Authorizing Rule:	154D
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the professions of mental health counselor, marriage and family therapist, and behavior analyst. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below cost of licensure in Iowa:

Mental Health Counselor
 Education: Undergraduate and masters degree
 Exam fee: \$275.00
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

Marriage and Family therapist
 Education: Undergraduate and masters degree
 Exam fee: \$365.00
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

Behavior Analyst
 Education: Graduate degree
 Exam fee: \$370.00
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

Assistant Behavior Analyst
 Education: Bachelor degree
 Exam fee: \$300
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

Education and Exam costs are the same for surrounding states as they also use the same exam and require the same educational requirements.

Mental Health Counselor Application fee for Nebraska is \$155, Minnesota is \$400, Illinois is \$150, South Dakota is \$225, Kansas is \$50, Missouri is \$100.

Marriage and Family Therapist Application fee for Nebraska is \$155, Minnesota is \$125, Illinois is \$100, South Dakota is \$225, Kansas is \$50, Missouri is \$100

Behavior Analyst Application fee: Nebraska appears to have just initiated licensure this year, a license cost is not found yet, Minnesota does not license, Illinois passed licensure last year, a license cost is not found yet, South Dakota is \$350, Kansas is \$70, Missouri is \$150

Iowa's initial licensure application process is similar to those implemented by other state boards.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .35 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of these mental health providers. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rule provides consistency related to the licensure in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 31.1 – Removed duplicative, unnecessary, and outdated language
- 31.2 – Removed duplicative, unnecessary, and restrictive language
- 31.3 - Removed duplicative, unnecessary, and restrictive language
- 31.4 - Removed duplicative, unnecessary, and restrictive language
- 31.5 – Added language to incorporate multi state compact commission rules
- 31.6 - Removed duplicative, unnecessary, and restrictive language
- 31.7 – Removed restrictive language
- 31.8 – Removed duplicative and unnecessary language
- 31.9 - Removed duplicative, unnecessary, and restrictive language
- 31.10 – Removed duplicative language
- 31.16 - Removed duplicative, unnecessary, and restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 31.13
- 31.14
- 31.15

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 31

LICENSURE OF MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR
ANALYSTS

[Prior to 1/30/02, see 645—Chapter 30]

645—31.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

“ACA” means the American Counseling Association.

“Active license” means a license that is current and has not expired.

“AMFTRB” means the Association of Marriage and Family Therapy Regulatory Boards.

“AMHCA” means the American Mental Health Counselors Association.

“BACB” means the Behavior Analyst Certification Board.

“Board” means the board of behavioral science.

“CCE” means the Center for Credentialing and Education, Inc. “Course” means three graduate semester credit hours.

“Grace period” means the 30-day period following expiration of a license when the license

is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a marital and family therapist, mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

“License expiration date” means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

“Licensure by endorsement” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

“Mental health setting” means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues.

“NBCC” means the National Board for Certified Counselors.

“Reactivate” or “reactivation” means the process as outlined in rule 645—31.16(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Temporary license” means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

[ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 4390C, IAB 4/10/19, effective 3/22/19;

ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5010C, IAB 3/25/20, effective 4/29/20]

645—31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist. *The following criteria shall apply to licensure:*

31.2(1) Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.3

31.2(2) The applicant for a mental health counseling license shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

31.2(3) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board or an equivalency evaluation completed by the Center for Credentialing and Education, Inc. (CCE) has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in subrule 31.4(1) or an equivalency evaluation of the applicant's educational credentials completed by CCE as defined in subrule 31.4(2).

For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in subrule 31.6(1) or an equivalency evaluation of the applicant's educational credentials completed by CCE as defined in subrule 31.6(2).

31.2(4) The candidate is required to take the examination(s) provided in 645-31.3(1).

31.2(5) The candidate for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 645—31.7(154D).

31.2(6) The candidate for temporary licensure must submit a supervision plan to the board prior to licensure. Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.

31.2(7) A temporary license is only valid for the purpose of fulfilling the postgraduate supervised clinical experience requirement. It is valid for three years and may be renewed at the discretion of the board.

31.2(8) A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

31.2(9) An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

645—31.3(154D) Examination requirements for mental health counselors and marital and family therapists. *The following criteria shall apply to the written examination(s):*

31.3(1) The applicant will take and pass the following examinations in order to qualify for licensing:

For a marital and family therapist license, the Association of Marriage and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

For a mental health counselor license or a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.

For a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

For a mental health counselor license, the NCMHCE of the NBCC.

31.3(2) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

31.3(3) *An applicant who is requesting approval to take the licensure examination prior to graduation shall:*

Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.3.

Have a letter on official school letterhead sent directly from the program director to the board indicating that the applicant is in good academic standing; that the applicant will graduate from the program within three months of the date on the letter; and the applicant's anticipated date of graduation.

645-31.4(147) Professional Counselor Licensing Compact. *The rules of the counseling compact commission are incorporated by reference.*

645—31.5(154D) Educational qualifications for marital and family therapists. *The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.4(2); no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:*

31.5(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.5(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. Graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of the graduates' educational credentials by the Center for Credentialing and Education, Inc. (CCE), website cce-global.org.

645—31.6(154D) Educational qualifications for mental health counselors. *The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.6(2); no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:*

31.6(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2012, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.6(2) *Content-equivalent program.* Applicants must present an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education which is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation

of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), website cce-global.org.

31.6(3) *Foreign-trained marital and family therapists or mental health counselors.* Foreign-trained marital and family therapists or mental health counselors shall:

Provide an equivalency evaluation of their educational credentials by the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; website www.ierf.org or email at info@ierf.org. A candidate shall bear the expense of the curriculum evaluation.

Receive a final determination from the board regarding the application for licensure.

645—31.7(154D) Supervised clinical experience. An applicant for licensure as a mental health counselor or marital and family therapist must complete a supervised clinical experience as set forth in this rule.

31.7(1) *Minimum requirements.* The supervised clinical experience must satisfy all of the following requirements:

Timing. The supervised clinical experience cannot begin until after all graduate coursework has been completed with the exception of the thesis.

Duration. The supervised clinical experience must be for a minimum of two years.

Minimum number of hours. The supervised clinical experience must consist of at least 3,000 hours of practice.

Minimum number of direct client hours. The supervised clinical experience will consist of at least 1,500 hours of direct client contact.

Minimum number of direct supervision hours. The supervised clinical experience will consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct

supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

Number of supervisors. A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

Number of supervisees. A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

Content. The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management,

ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

31.7(2) Eligible supervisors. A supervisor must satisfy all of the following requirements:

Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.

Have a minimum of three years of independent practice.

Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.

Must be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

31.7(3) Supervision plan. Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

31.7(4) Supervision report. When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

31.7(5) Supervised clinical experience in other states. An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience that has been completed can be used to qualify for licensure in Iowa.

31.7(6) Grandfather clause. Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

645—31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists. *An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.*

31.8(1) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

Meets the requirements of 645-31.2 and

Provides verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction(s) to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

Licensee's name;

Date of initial licensure;

Current licensure status; and

Any disciplinary action taken against the license; and

31.8(2) *In lieu of meeting the requirements of paragraphs 31.2(4) and 31.2(5), applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:*

The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy or an equivalent counseling-related field; and

The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

31.8(3) *A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).*

645—31.9(147) Licensure of behavior analysts and assistant behavior analysts.

31.9(1) *Submit a completed application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.3.*

31.9(4) *For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For*

licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

645—31.10(147) License renewal for mental health counselors and marriage and family therapists.

31.10(1) *The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.*

Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.10(2) *A licensee seeking renewal shall:*

Meet the continuing education requirements of rule 645—32.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

31.10(3) *Mandatory reporter training requirements.*

A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)"b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "d."

A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)"b" in the previous three years or condition(s) for waiver of this requirement as

identified in paragraph “d.”

The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” and “b,” including program date(s), content, duration, and proof of participation.

The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

Is engaged in active duty in the military service of this state or the United States.

Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

The board may select licensees for audit of compliance with the requirements in paragraphs

“a” to “d.”

31.10(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.10(5) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.10(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule

5.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.10(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.

31.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant’s current certification issued by BACB.

31.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee’s BACB certification. Each license renewed shall be given the expiration date that is on the licensee’s current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.11(3) A licensee seeking renewal shall:

Meet the continuing education requirements required by BACB to renew a certification.

Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.

Submit the completed renewal application and renewal fee before the license expiration date.

31.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

31.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.11(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

31.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 645—subrule 5.3(6).

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client's discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of

treatment.

Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

Hard-copy records. Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

Upon a licensee's death:

The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

645—31.13(17A,147,272C) License reactivation for mental health counselors and marital and family therapists. *To apply for reactivation of an inactive license, a licensee*

shall:

31.13(1) *Submit a reactivation application.*

31.13(2) *Pay the reactivation fee that is due as specified in 645—Chapter 5.*

31.13(3) *Provide:*

a. Verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction(s) to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

Licensee’s name;

Date of initial licensure;

Current licensure status; and

Any disciplinary action taken against the license; and

b. Verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

645—31.14(17A,147,272C) License reinstatement. *A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—31.16(17A,147,272C) or subrule 31.11(8) prior to practicing mental health counseling, marital and family therapy, or applied behavior analysis in this state.*

645—31.15(154D) Marital and family therapy and mental health counselor services subject to regulation. *Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.*

645—31.16(154D) Temporary licensees. *A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.*

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	5148
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	31

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Behavioral Science	Date:	8/15/2023	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 32	Iowa Code Section Authorizing Rule:	154D
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for mental health counselors and marriage and family therapists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high quality services to Iowans.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved because it requires that licensees meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them provide the best care to Iowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensees who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Licensees have multiple options. Courses can range anywhere from \$100 an hour to \$0 per hour. The Board allows for online coursework which increases the availability of free or low cost options.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.35 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the Board would need to conduct, but the board has not

been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that Iowa is in line with neighboring jurisdictions. Iowa requires 40 hours of continuing education every two years. Illinois and Kansas require 30 hours; Nebraska requires 32, Minnesota, Missouri, and South Dakota require 40 hours. Staff held conversations with board members inquiring if the Board would recommend lowering the continuing education requirements. The Board did not recommend a change in continuing education hours.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

32.1 Removed restrictive language

32.2 Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

32.4 thru 32.11

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 32

CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

645—32.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“Active license” means the license is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of behavioral science.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the

enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 32.3(1).

“License” means license to practice.

“Licensee” means any person licensed to practice marital and family therapy or mental health counseling in the state of Iowa.

645—32.2(272C) Continuing education requirements.

32.2(1) The biennial continuing education compliance period shall extend for a 25-month period beginning on September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state is required to complete a minimum of 40 hours of continuing education approved by the board.

32.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

32.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

32.2(4) No hours of continuing education will be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

32.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—32.3(154D,272C) Standards.

32.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

32.3(2) Specific criteria. Continuing education hours of credit may be obtained by completing the following:

- a. Attendance at workshops, conferences, symposiums and webinars.
- b. Academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours 1 academic quarter hour = 10 continuing education hours

- c. Completion of independent study courses that meet the general criteria in subrule 32.3(1).
 - d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:
 - (1) Presenting professional programs which meet the criteria in 645—32.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.
 - (2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.
 - (3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.
 - (4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.
 - (5) Authoring papers, publications, and books. The licensee will receive five hours of credit per page with a maximum of 20 hours of credit.
 - (6) Serving on a state or national professional board. The licensee will receive a maximum of three hours of credit.
- 32.3(3) Required specific criteria:
- a. Three hours of the 40 continuing education hours will be in ethics.
 - b. Effective with the biennial continuing education compliance period that begins October 1, 2022, persons serving in a supervisory role must complete three hours of continuing education in supervision.
 - c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.
 - d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	197
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Behavioral Science	Date:	08/15/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 33	Iowa Code Section Authorizing Rule:	154D
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for optometrists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the board’s professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Behavioral Science Board receives a number of complaints each year. In 2021 the Board received 55 and in 2022 it received 50. The Board initiated 11 public discipline actions during that two-year period. Licensees routinely provide mental health services to lowans. Licensee who fail to meet practice standards have the potential to inflict serious harm to vulnerable lowans who receive their services, so the Board believes that regulation is necessary

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care in medical journals, etc. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Civil penalties are capped at \$10,000. \$1,000 per incident, up to a max of \$10,000.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.35 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because of the highly-sensitive nature of the services being provided by these licensees.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent and safe practitioners. There has been some standardization of consideration of criminal convictions

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

33.2 removed duplicative language found in 645 Chapter 13 and replaced restrictive language with less restrictive terms.

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 33.1
- 33.3
- 33.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

645—33.1(154D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—33.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13.:

33.2(1) Failure to comply with the national association’s code of ethics.

a. Marital and family therapists. Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT’s website.

b. Mental health counselors. Failure to comply with the current Code of Ethics of the American Counseling Association (ACA), which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the ACA website.

c. *Behavior analysts and assistant behavior analysts.* Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

33.2(2) Sexual relationships.

a. *Current clients.* A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. *Former clients.* A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

33.2(3) Physical contact. A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1621
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 9, 2023	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	41 Licensure of Chiropractic Physicians	Iowa Code Section Authorizing Rule:	151
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for licensure as a chiropractor in our state. Iowa residents, licensees, and employers benefit from the rule as it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

Yes, the Board believes the benefit of the rule is being achieved as only qualified individuals are permitted to enter the profession and the rule satisfied statutory directives established by the legislature.

What are the costs incurred by the public to comply with the rule?

There are no direct costs imposed on the public to comply with the rule, however, there is a cost to the applicant to meet the requirements in statute and rule.

Required education and licensure costs to become an Iowa licensed chiropractor:

Education: Graduate of a chiropractic school accredited by the Council on Chiropractic Education.
 NBCE four-part examination: \$2,580
 Application fee: \$120

In comparison, Nebraska requirements are below:

Education: Graduate of a chiropractic school accredited by the Council on Chiropractic Education.
 NBCE four-part examination: \$2,580
 Application fee: \$144

In comparison, Minnesota requirements are below:

Education: Graduate of a chiropractic school accredited by the Council on Chiropractic Education.
 NBCE four-part examination: \$2,580
 Application fee: \$250

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs incurred by the agency are staff time to manage the full scope of board activities that includes oversight of practice standards, triaging questions from licensees and the public, and administering board meetings. An executive officer supports the work of the board at approximately 0.37 FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. Since 2021, there were 52 complaints filed. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing high quality patient care to lowans. These regulations help to ensure chiropractors understand their obligations to safely manage and treat patients within their scope of practice.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost-effective alternative to the licensure of chiropractors. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, however, the Board would be concerned about the public safety of lowans in that scenario. Doing so would also place Iowa out of line with the rest of the country. The regulation and licensure of chiropractors is consistent across the country.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication and restrictive language in accordance with EO10.

- 41.1 – removes redundant and restrictive language; amends name of department.
- 41.2 – Removes redundant and restrictive language.
- 41.3 – Removes redundant and restrictive language.
- 41.4 – Removes redundant and restrictive language.
- 41.5 – Removes redundant and restrictive language; improved clarity of rule.
- 41.6 – Rescinded rule and renumbers proceeding rules.
- 41.6 – Removes redundant and restrictive language; improved clarity of rule.
- 41.7 Reserved - Rescind place holder.
- 41.9 – 41.13 Reserved – Rescind place holders.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 41
LICENSURE OF CHIROPRACTIC PHYSICIANS

645—41.1(151) Definitions. The following definitions will be applicable to the rules of the Iowa board of chiropractic:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the Iowa board of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws.

“*Department*” means the Iowa Department of Inspections, Appeals and Licensing

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice chiropractic to an applicant who is or has been licensed in another state and meets the criteria for licensure in this state.

“*NBCE*” means the National Board of Chiropractic Examiners.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—41.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*SPEC*” means Special Purposes Examination for Chiropractic, which is an examination provided by the NBCE that is designed specifically for utilization by state or foreign licensing agencies.

645—41.2(151) Initial licensure.

41.2(1) To apply for a license, the applicant will complete an online application packet and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application and submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

b. A person who is licensed in another jurisdiction who cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

c. An application not completed according to guidelines will not be reviewed by the board.

d. The applicant will request the accredited chiropractic school submit official copies of the applicant’s transcripts to the board office.

e. The applicant will submit an official certificate of completion of 120 hours of physiotherapy that includes a practicum component from a board-approved chiropractic college.

f. The applicant will pass all parts of the NBCE examination as outlined in rule 645—41.3(151).

f. The applicant will submit a copy of the chiropractic diploma.

41.2(2) Licensees who were issued their licenses within six months prior to the renewal date are not required to renew their licenses until the renewal date two years later.

41.2(3) Incomplete applications that have been on file in the board office for more than two years will be:

- a. Considered invalid and destroyed; or
- b. Maintained upon written request from the candidate.

41.2(4) A license will be publicly displayed in the licensee's primary place of practice.

41.2(5) Licensees are required to notify the board of chiropractic of changes in residence or place of practice within 30 days after the change of address occurs.

645—41.3(151) Examination requirements.

41.3(1) Applicants will submit the application for the NBCE examination and the fee directly to the NBCE.

41.3(2) The following criteria will apply for the NBCE:

- a. Prior to July 1, 1973, applicants will provide proof of being issued a basic science certificate.
- b. After July 1, 1973, applicants will provide proof of successful completion of the required examination from the NBCE.

The required examination will meet the following criteria:

(1) Examinations completed after July 1, 1973, will be defined as the successful completion of Parts I and II of the NBCE examination.

(2) Examinations completed after August 1, 1976, will be defined as the successful completion of Parts I, II and Physiotherapy of the NBCE examination.

(3) Examinations completed after January 1, 1987, will be defined as the successful completion of Parts I, II, III and Physiotherapy of the NBCE examination.

(4) Examinations completed after January 1, 1996, will be defined as satisfactory completion of Parts I, II, III, IV and Physiotherapy of the NBCE examination.

645—41.4(151) Educational qualifications.

41.4(1) An applicant will present an official transcript verifying graduation from a CCE-accredited and board-approved college of chiropractic.

41.4(2) Foreign-trained chiropractic physicians will:

a. Provide an equivalency evaluation of their educational credentials processed by the International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a chiropractic program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—41.5(151) Temporary certificate.

41.5(1) The board may issue a temporary certificate to practice chiropractic at its discretion if the issuance is in the public interest and the applicant demonstrates a need for the temporary certificate and meets the professional qualifications for licensure.

41.5(2) Demonstrated need. An applicant must submit information explaining the demonstrated need, how the issuance would serve the public interest, the scope of practice requested, and why a temporary certificate should be granted. To meet the demonstrated need requirement, the applicant will provide the need meets one of the following conditions:

a. The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

b. The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor;

c. The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service; or

d. The applicant will provide chiropractic services in connection with an urgent need.

41.5(3) Qualifications for licensure:

a. Complete an online application packet on the Iowa Board of Chiropractic website and pay the nonrefundable application fee.

b. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

c. Provide a copy of a chiropractic diploma.

41.5(4) A temporary certificate will be issued for one year to fulfill the demonstrated need

41.5(5) An applicant or temporary certificate holder who has been denied a temporary certificate may appeal the denial pursuant to rule 645—4.10(17A,147,272C). A temporary certificate holder is subject to discipline for any grounds for which licensee

discipline may be imposed.

41.5(6) A temporary certificate holder who meets all licensure conditions as specified in rule 645—41.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant will submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary certificate if the application for the permanent license and all required documentation are received by the board prior to the expiration of the temporary certificate.

645—41.6(151) License renewal.

41.6(1) The license renewal period for a license to practice begins on July 1 of an even numbered year and ends on June 30 of the next even numbered year.

41.6(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

41.6(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of rule 645—44.2(272C) and the mandatory reporting requirements of subrule 41.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Complete the online renewal application, pay the fee, and attach certificate of completing continuing education hours on the Iowa Board of Chiropractic website before the expiration date.

41.6(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of their professional practice will complete the applicable department of health and human services' training for identifying and reporting child abuse and/or dependent adult abuse. A licensee will maintain written documentation of training completion for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver from the board demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs 41.8(4) "a."

41.6(5) A two-year license will be issued after the requirements of rule are met. If the board receives adverse information on the renewal application, they may refer the adverse information for further consideration or disciplinary investigation.

41.6(6) Late renewal. The licensee is responsible for renewing the license prior to expiration every two years. The licensee will complete the renewal requirements and pay the late fee within the 30-day grace period.

41.6(7) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

645—41.7(17A,147,272C) Requirements for reactivation. To apply for reactivation, a licensee will:

41.7(1) Complete an online reactivation application on the Iowa Board of Chiropractic website pay the nonrefundable reactivation fee.

41.7(2) Provide verification of current competence to practice as a chiropractic physician by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Send verification. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Submit proof. Submit proof of completing 40 hours of continuing education within two years of application.

b. If the license has been on inactive status for more than five years, an applicant must:

(1) Send verification. Submit a license verification document that discloses if disciplinary action was taken against applicant from every jurisdiction in which the applicant has been licensed.

(2) Submit proof of completing 40 hours of continuing education within two years of application. (3) Send verification of passing the SPEC if the applicant does not have a current license and has not had an active license in the United States during three of the past five years.

645—41.8(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board approved reinstatement of the license and must apply for and be granted reactivation prior to practicing in the state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	2,143
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 10, 2023	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	42 Colleges for Chiropractic Physicians	Iowa Code Section Authorizing Rule:	151
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule is intended to establish requirements for chiropractic colleges that meet accreditation standards by the U.S. Department of Education and to support an internship program that allows students to be mentored by a licensed chiropractor.

Is the benefit being achieved? Please provide evidence.

Yes, the clear expectations ensure consistency in educational programs and offer students the opportunity to have hands-on experience under the supervision of a licensed chiropractor while being gainfully employed.

The Board believes the process created by this rule works effectively. Most recently in October 2021, the Board recognized and approved the curriculum of Parker University for participation as a board-approved preceptorship program.

What are the costs incurred by the public to comply with the rule?

There are no costs imposed on the general public to comply with the rule. The educational programs applying for board approval do incur costs associated with obtaining and maintaining national accreditation to comply with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of an executive officer at approximately 0.37 are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs do justify the benefits of this rule. Ultimately, by integrating chiropractic students into the Iowa workforce, they gain competencies and on the job training in their chosen profession. The Iowa chiropractic schools and internship programs contribute to the growth of the profession.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board does not believe there is a less restrictive means of ensuring proper training for chiropractic students. The current model relies on trusted, national accrediting entities to complete a comprehensive evaluation of training programs, while allowing the Board the discretion to independently evaluate factors that may be of concern with an individual program. This model ensures appropriate oversight to protect against insufficient or potentially fraudulent training programs that could place the health and safety of Iowans at risk. According to the statistics from the Federation of Chiropractic Licensing Boards, most states offer chiropractic internship programs under a licensed chiropractor.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

42.1 Removed restrictive language.
42.4 Removed restrictive language.
42.5 Removed restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 42
COLLEGES FOR CHIROPRACTIC PHYSICIANS

645—42.1(151) Definitions. For the purposes of these rules, the following definitions will apply:

“*Chiropractic intern*” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program, as authorized by these rules.

“*Chiropractic preceptor*” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

“*Chiropractic resident*” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a

college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

“*Chiropractic student*” means a student of an approved college of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE).

“*Preceptorship practice*” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

“*60-minute hour*” means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic that the chiropractic program meets the following requirements:

a. The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

b. The core curriculum meets the requirements of the CACCE standards and, in addition:

(1) Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic.

d. Transcripts include entries for all completed coursework.

645—42.3(151) Practice by chiropractic interns and chiropractic residents. A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

645—42.4(151) Approved chiropractic preceptorship program. The board will approve a chiropractic college’s preceptorship program if the program meets the following requirements:

42.4(1) The preceptorship program meets current CCE standards for consumer protection.

42.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

42.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

42.4(4) Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

42.4(5) All chiropractic physicians who serve as preceptors will be approved under rule 645—42.5(151).

42.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

42.4(7) The chiropractic preceptor will supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

42.4(8) If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic of the preceptorship cancellation. The notice will include reasons for cancellation of the preceptorship.

645—42.5(151) Approved chiropractic physician preceptors.

42.5(1) A chiropractic physician will be approved to be a chiropractic physician preceptor if the following criteria are met:

a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;

b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and

c. The chiropractic physician has not had any formal disciplinary action.

42.5(2) The role of the chiropractic physician preceptor will include:

a. Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident will wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.

c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.

e. Notifying the preceptorship program within 30 days of either of the following actions:

(1) If the preceptor has any formal disciplinary action taken by any licensing entity; or

(2) If the preceptor is a party to any malpractice settlement or judgment.

645—42.6(151) Termination of preceptorship. A preceptorship may terminate upon the occurrence of one of the following events:

42.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

42.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

42.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	92
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 10, 2023	Total Rule Count:	12
IAC #:	645	Chapter/ SubChapter/ Rule(s):	43 Practice of Chiropractic Physicians	Iowa Code Section Authorizing Rule:	151, 147
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule articulates the medical scope of practice that a chiropractor can provide. It provides Iowans, licensees, and their employers with more information on the accepted minimum standards for the practice of this profession in our state.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are costs to the licensee associated in meeting practice standards. These include meeting the educational qualifications proscribed by rule. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc. An executive officer supports the work of this board at approximately 0.37 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557, which is funded by licensure fees.

Do the costs justify the benefits achieved? Please explain.

The Board believes that the costs justify the benefits achieved in order to regulate the chiropractic profession in accordance with Iowa Code. Since 2021, 52 complaints have been filed. Absent these rules, lower skilled individuals could provide chiropractic services in our state and the Board anticipates there would be an increase in the number of complaints from the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Doctors of chiropractic are licensed and regulated in all 50 states plus the District of Columbia and many U.S. territories.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were a number of opportunities to streamline and add clarity to rule language. Listed below is a summary of changes.

- 43.1 – removes restrictive and duplicative language and improved clarity of rule.
- 43.2 – improved clarity of rule.
- 43.3 – recites statutory language.
- 43.4 – removes restrictive language.
- 43.5 – removes restrictive language.
- 43.6 – rescinded place holder and renumbers proceeding rules.
- 43.7 – removes restrictive language.
- 43.9 – removes language that is obsolete and renumbers proceeding rules.
- 43.8 – removes restrictive language and improved clarity of rule.
- 43.9 – removes restrictive language and improved clarity of rule.
- 43.10 – removes restrictive language and improved clarity of rule.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 43
PRACTICE OF CHIROPRACTIC PHYSICIANS

645—43.1(151) Definitions. The following definitions will be applicable to the rules of the Iowa board of chiropractic.
“*Active chiropractic physiotherapy*” means therapeutic treatment performed by the patient including, but not limited to, exercises and functional activities that promote strength, endurance, flexibility, and coordination.
“*Acupuncture,*” defined pursuant to Iowa Code section 148E.1
“*Adjustment/manipulation of neuromusculoskeletal structures*” means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician’s hands or instruments in a manipulation of a joint by thrust so the patient’s

volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, or stimulation of joint receptors. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship and associated functions of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.

2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.

3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility.

4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

“Anatomic barrier” means the limit of motion imposed by anatomic structure, the limit of passive motion.

“CCCA” means the Certified Chiropractic Clinical Assistant program offered by the FCLB.

“Certified chiropractic assistant” means a person who has completed a certified chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

“Chiropractic insurance consultant” means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

“Chiropractic manipulation” means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

“Differential diagnosis” means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

“Elastic barrier” means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

“Extremity manipulation” means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

“FCLB” means the Federal Chiropractic Licensing Board.

“Malpractice” means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

“Mobilization” means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

“PACE” means Providers of Approved Continuing Education and is the signature program of the FCLB.

“Passive chiropractic physiotherapy” means therapeutic treatment administered and received by the patient including, but not limited to, mechanical, electrical, thermal, or manual methods.

“Physiologic barrier” means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

“Practice of acupuncture,” defined pursuant to Iowa Code section 148E.1 *“Supervising chiropractic physician”* means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a certified chiropractic assistant.

“Supervision” means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

645—43.2(147,272C) Principles of chiropractic ethics. The following principles of chiropractic ethics are adopted by the board for the practice of chiropractic in this state.

43.2(1) These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician’s conduct in the chiropractic physician’s relationship with patients, with colleagues, with members of allied professions, and with the public.

43.2(2) The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

43.2(3) Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

43.2(4) A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

43.2(5) The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

43.2(6) A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician's ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

43.2(7) A chiropractic physician should not dispose of services under terms or conditions which tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

43.2(8) A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

43.2(9) A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

43.2(10) The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

645—43.3(151,514F) Utilization and cost control review pursuant to Iowa Code section 514F.1

645—43.4(151) Chiropractic insurance consultant.

43.4(1) A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of (a) recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules and (b) the propriety of chiropractic diagnosis and care.

43.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, will indicate on their licensure renewals that they are engaged in those activities and the location where those activities are performed.

43.4(3) Licensed chiropractic physicians will not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a. Hold a current license in Iowa.
- b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.
- c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant.

Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

645—43.5(151) Acupuncture. A chiropractic physician who engages in the practice of acupuncture will maintain documentation that shows the chiropractic physician has successfully completed a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site. The licensee will maintain a transcript or certification of completion showing the licensee's name, school or course sponsor's name, date of course completion or graduation, grade or other evidence of successful completion, and number of course hours. The licensee will provide the transcript or certification of completion to the board upon request.

645—43.6(151) Adjunctive procedures.

43.6(1) Adjunctive procedures are defined as procedures related to differential diagnosis.

43.6(2) For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

43.6(3) Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures which they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

645—43.7(151) Physical examination. The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures will not include prescription drugs or operative surgery.

645—43.8(151) Record keeping.

43.18(1) Chiropractic physicians will maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records will be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

43.8(2) Chiropractic physicians will maintain clinical records for each patient which include all of the following:

a. Personal data.

- (1) Name;
- (2) Date of birth;
- (3) Address; and
- (4) Name of parent or guardian if a patient is a minor.

b. Health history. Records will include information from the patient or the patient's parent or guardian regarding the patient's health history.

c. Patient's reason for visit. When a patient presents with a chief complaint, clinical records will include the patient's stated health concerns.

d. Clinical examination progress notes. Records will include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;
- (2) Plan of intended treatment, including description of treatment, frequency and duration;
- (3) Services rendered and any treatment complications;
- (4) All testing ordered or performed;
- (5) Diagnostic imaging report if imaging procedure is ordered or performed;
- (6) Sufficient data to support the recommended treatment plan.

e. Clinical record. Each page of the clinical record will include the patient's name, the date information was recorded and the doctor's name or facility's name.

43.8(3) Retention of records. A chiropractic physician will maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors will be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards will be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

43.8(4) Electronic record keeping. When electronic records, which include both electronically created records and scanned paper records, are utilized, a chiropractic physician will maintain either a duplicate hard-copy record or a backup electronic record.

43.8(5) Correction of written records. Notations will be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.8(6) Correction of electronic records. Any alterations made after the date of service will be visibly recorded. All alterations will include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.8(7) Abbreviations will be standard and common to all health care disciplines. Nonstandard abbreviations will be referenced with a key that is included in the record when the record is requested.

43.8(8) Confidentiality and transfer of records. Chiropractic physicians will preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician will furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date of transfer and method of transfer will be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records but may not refuse to transfer records for nonpayment of any fees. A written request may be required before the transfer of the record(s), including, for example, compliance with HIPAA regulations. In certain instances, a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

43.8(9) Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, will:

a. Notify all active patients, in writing one month prior to discontinuation of practice. The notification will include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

b. Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

c. For the purposes of this subrule, “active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

43.8(10) Record-keeping procedures and standards will be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

43.8(11) A chiropractic physician who offers a prepayment plan for chiropractic services will:

a. Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, will include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient will receive a prompt refund of any unused funds upon request. The refund will be calculated based on a defined method, which will be clearly set forth in the written prepayment policy statement.

b. Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

c. Maintain the signed and dated written prepayment policy statement in the patient’s record.

645—43.9(151) Billing procedures.

43.9(1) Chiropractic physicians will maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records will contain all of the following:

a. Name, date of birth and address.

b. Diagnosis indicated with description or ICD code.

c. Services provided with description or CPT code.

d. Dates of services provided.

e. Charges for each service provided.

f. Payments made for each service and indication of the party providing payment.

g. Dates payments are made.

h. Balance due for any outstanding charges.

43.9(2) Chiropractic physicians will preserve the confidentiality of billing records.

43.9(3) Upon signed request of the patient, the chiropractic physician will furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any outstanding balance.

43.9(4) Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician’s name.

43.9(5) Chiropractic physicians:

a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

b. Who provide clinical services are required to familiarize themselves with the clinic’s billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

43.9(6) A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician’s name or identifying number(s). Signature stamps or electronically generated signatures will be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

43.9(7) Chiropractic physicians will not knowingly:

a. Increase charges when a patient utilizes a third-party payment program.

- b. Report incorrect dates or types of service on any billing documents.
- c. Submit charges for services not rendered.
- d. Submit charges for services rendered which are not documented in a patient's record.
- e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.
- f. Bill patients or make claims under a third-party payer contract in a manner which misrepresents the nature of the chiropractic services that have been performed.

43.9(8) For cases not involving third-party payers, nothing in this rule will prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician will document time of service or hardship case fee reduction provisions in the patient record.

43.9(9) The chiropractic physician will not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician will document any hardship case fee reduction provisions in the patient record.

645—43.10(151) Certified chiropractic assistants.

43.10(1) *Supervisory responsibilities of the chiropractic physician.*

a. The supervising chiropractic physician will ensure at all times that the certified chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

b. The supervising chiropractic physician may delegate services to a certified chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules will be grounds for discipline under 645—Chapter 45.

c. A chiropractic physician will not delegate to the certified chiropractic assistant the following:

- (1) Services outside the chiropractic physician's scope of practice;
- (2) Initiation, alteration, or termination of chiropractic treatment programs;
- (3) Chiropractic manipulation and adjustments;
- (4) Diagnosis of a condition.

d. A supervising chiropractic physician will ensure that a certified chiropractic assistant is informed of the supervisor and certified chiropractic assistant relationship and is responsible for all services performed by the certified chiropractic assistant.

43.10(2) *Education requirements for certified chiropractic assistants.*

a. The supervising chiropractic physician will ensure that a certified chiropractic assistant has completed a professional certification program. A certified chiropractic assistant training program will include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the certified chiropractic assistant. Any certified chiropractic assistant training program will be provided by an approved CCE-accredited chiropractic college, FCLB, PACE, CCCA, or a chiropractic state association.

b. Certified chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

c. Certified chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

d. If both paragraphs "b" and "c" apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures will be required for a total of 24 hours of instruction.

e. The supervising chiropractic physician will provide a written attestation to the chiropractic college that the certified chiropractic assistant has completed the clinical experience. The college will issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs "b," "c" and "d" of this subrule.

f. The chiropractic physician will maintain in the chiropractic physician's primary place of business proof of the certified chiropractic assistant's completion of the training program. Copies of such documents will be provided to the board upon request.

These rules are intended to implement Iowa Code chapters 147, 151, 272C and 514F.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	10
Proposed word count reduction after repeal and/or re-promulgation	849
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	78

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 14, 2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	44 Continuing Education for Chiropractic Physicians	Iowa Code Section Authorizing Rule:	151
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for chiropractors. The intended benefit of this rule is to ensure licensees maintain professional competency and safety in diagnosing and analyzing human ailments, techniques, and billing guidelines administered by state and federal programs.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that chiropractors meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practices, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

It is the responsibility of each licensee to finance the cost of continuing education with no cost to the public. CEU's costs approximately \$15.00 per one hour of CE credit through online providers for the state association, or approximately \$600 on a biannually basis.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.37 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that Iowa continuing education requirements for chiropractors are comparable to surrounding states.

South Dakota – 40 hours of continuing education per biennium.

Kansas – 50 hours of continuing education annually.

Nebraska – 36 hours of continuing education per biennium.

Missouri – 48 hours of continuing education per biennium.

Minnesota – 20 hours of continuing education annually.

Iowa – 40 hours of continuing education per biennium.

The board is not recommending a reduction in the continuing education requirements for this profession.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, there were a number of opportunities to streamline and add clarity to rule changes. Listed below is a number of proposed changes.

44.1 – removes restrictive language.

44.2 – removes restrictive and unnecessary language; improved clarity of rule.

44.3 – removes restrictive and unnecessary language; improved clarity of rule.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 44
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

645—44.1(151) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the Iowa board of chiropractic.

“*Clinical case management*” means coursework pertaining to diagnosis, treatment, and appropriate referral or coordination of care.

“*Continuing education*” means planned, organized learning acts meeting the standards set forth in these rules, acquired during licensure, and designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of chiropractic practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest and certificate of completion.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

645—44.2(272C) Continuing education requirements.

44.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later.

44.2(2) Requirements of new licensees. Continuing education is not required in the first renewal period with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal, with the exception of two hours in the content areas of 645—Chapters 41 through 45 and Iowa Code chapter 151, may be used after the first renewal period. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

44.2(3) Hours of continuing education credit will be obtained by attending and participating in a continuing education activity as stipulated in rule.

44.2(4) No hours of continuing education will be carried over into the next biennium except as stated in 44.2(2) and 44.3(2) “a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

44.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—44.3(151,272C) Standards.

44.3(1) General criteria. A continuing education activity must meet the following criteria:

a. Constitute an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertain to subject matters which integrally relate to the practice of the profession;

c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfill stated program goals, objectives, or both; and

e. Provide proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program clock hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

44.3(2) Specific criteria.

a. Continuing education hours of credit will be obtained by completing:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. At least 20 of these hours will be earned by completing a program in which an instructor conducts the class by employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any online instruction, that complies with conditions specified in 44.3(1).

- (2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.
- (3) A minimum of 12 hours per biennium of continuing education in the field of acupuncture is required for licensees certified in acupuncture and may be used towards clinical case management if the chiropractic physician is actively engaged in the practice of acupuncture. Chiropractic physicians not engaged in the active practice of acupuncture may take continuing education hours in the field of acupuncture for continuing education credit.
- (4) Classes on child abuse and dependent adult abuse that meet the criteria in 645—subrules 41.8(4) and 44.3(1).
- (5) Two hours of continuing education credit is required in the first biennial renewal period and one hour every biennial renewal period after that in the content areas of the administrative rules related to chiropractic physicians in Iowa, found at 645—Chapters 41 through 45 and the statutory provisions specific to the practice of chiropractic in Iowa Code chapter 151.
- b. Continuing education hours of credit may be obtained by:
- (1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.
- (2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion.
- (3) A licensee who is a presenter of a continuing education program may receive credit once per biennium for the initial presentation of the program.
- (4) Completing a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.
- (5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).
- (6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.
- c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.
- 44.3(3) Specific criteria for presenters.** All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	405
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 14, 2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter / Rule(s):	45 Discipline for Chiropractic Physicians	Iowa Code Section Authorizing Rule:	151, 147, 272C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule is intended to define the disciplinary sanctions the board may impose against a licensee who is guilty of the acts or offenses prescribed in rule.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved through discipline initiated against licensees based off of violations.

What are the costs incurred by the public to comply with the rule?

No direct cost to the general public to comply with the rule since expenses related to the disciplinary process are appropriated through retained licensing fees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries, support, and maintenance to impose disciplinary sanctions are paid from retained licensing fees of the Licensing & Regulation Fund in SF 557.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost-effective alternative to the current discipline process.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity through the EO 10 guidance to remove duplicate, redundant and restrictive language in rule.

45.1 – rescind duplicate language and renumbered proceeding rule.

45.1(1) – removes restrictive language.

45.1(2) – improves clarity of rule.

45.1(3) – incorporates language to strengthen consumer protection when direct health care agreements are executed and renumbers proceeding rules.

RULES PROPOSED FOR REPEAL (list rule number[s]):

45.2(1) – rescinded from this chapter and promulgated in common rule Chapter 13 Discipline.

45.2(4) - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

45.2(6-32) – rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

45.1(3) – rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

45.1(4) – rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

645—45.1(151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—45.1 (147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645—Chapter 13:

45.1(1) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term “physical therapy” when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein will be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

45.1(2) Use of untruthful or improbable statements in advertisements and marketing. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation or representations that are likely to cause the average person to misunderstand. The term “advertisements” includes oral, written, electronic, and other types of communication disseminated by or at the direction of a licensee for the purpose of encouraging or soliciting the use of the licensee’s services.

45.1(3) (151,272C,135N.1) Violate the provisions of Direct health care agreements pursuant to Iowa Code section 135N.1

45.1(4) Failure to maintain a patient’s record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1,642
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Division of Licensing	Date:	8/30/2023	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 60	Iowa Code Section Authorizing Rule:	17A, 147, 157 and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to set minimum standards of entry into the barbering and cosmetology arts and sciences professions.

Iowa residents, licensees and employers benefit from the rule as it clarifies the processes by which licensees may apply for licensure as a barber and cosmetologist, nail technician, esthetician, electrologist, or instructor, as directed in statute.

The rule publicly illustrates the process that will be used for initial licensure, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The rule describes the application process, educational qualifications, and exam requirements.

The rule also articulates the merger of the board of barbering with the board of cosmetology arts and sciences, providing guidance for legacy license holders.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement, establishing a clear process for the licensing process and ensuring only qualified individuals are permitted to enter the profession establishing a clear process for the licensing of barber and cosmetologist, nail technician, esthetician, electrologist, and instructors. The rules provide guidance to instructors and students and ensure that establishment and school owners who do not hold a license in any of the prescribed disciplines understand infection control and the laws and rules under which licensees must operate, including public posting requirements.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes:

Estimation of the cost of education and other licensure requirements, to become an **Iowa licensed Barber and Cosmetologist** are:

Education (Barber and Cosmetology School): \$17,775 - \$22,384; 2100 hour education program (HF 652 updated the minimum hours from 2100 to 1550)

Exam fee: \$83 [Barber and Cosmetologist • Electrologist • Esthetician • Nail Technologist • Instructor]

Application 2-year License Fee: \$60 (Please note application fees are addressed in IAC 645-5.2 and 5.5)

Establishment License \$72 - Not required when the licensee works for someone who holds an establishment license [Fees are in 645 Chapter 5]

Total Estimated Licensure Cost for the first 2 YEARS: \$143 - 215 = \$71.50 - 107.50 ANNUALLY

Minnesota Board of Barber Examiners [2022 Minnesota Statutes 154.15]

Education: \$18,988 - \$24,988; 1550 hours of education

Application Annual License Fee: \$85

One Time Examination: \$85

Any other licensing expense: Establishment Annual License \$85 *Not required when the licensee works for someone who holds an establishment license*

Minnesota BARBER Total Estimated Licensure Cost for the first YEAR: \$170 to \$255

Minnesota Cosmetologist and Esthetician Initial Licensure Requirements are below:

Education: \$18,988 - \$24,988; 1550 hours of education

Application 2-year License Fee: \$195

One Time Examination: \$85

Any other licensing expense: Establishment 3-year License \$350 *Not required when the licensee works for someone who holds an establishment license*

Minnesota COS/ESTHI Total Estimated Licensure Cost for the first 2 YEARS: \$280 to \$512 = \$140 to \$256 ANNUALLY

Nebraska Board of Barber Examiners

Education: \$15,673 - \$21,042; hours of education regulated by the Board of Barbers

Application 2-year License Fee: \$95

Examination: \$85

Any other licensing expense: Establishment License \$150 *Not required when the licensee works for someone who holds an establishment license*

Nebraska BARBER Total Estimated Licensure Cost for the first 2 YEARS: \$180 to \$330 = \$90 to \$165 ANNUALLY

NEBRASKA Department of Health and Human Services Cosmetology and Esthetics

Education: \$19,300 - 21,850; 1800 hours of education

Application 2-year License Fee: \$95

Examination: \$85

Any other licensing expense: Establishment License \$220 *Not required when the licensee works for someone who holds an establishment license*

Nebraska Cosmetology Esthetics Total Estimated Licensure Cost for the first 2 YEARS: \$180 to \$330 = \$90 to \$165 ANNUALLY

Iowa's initial licensure application process is similar to those implemented by other state boards of Barbers and Cosmetologists.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. This includes reviews at the time of initial application and during reinstatement. Compliance audits are performed randomly on renewed licenses. Licensees are selected at random by the licensing software algorithm to complete an annual

compliance review per board, sending out letters/emails and evaluating the documentation provided. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement. Licensure by consent agreements and discipline imposed by the board are monitored by office staff.

An executive officer supports the full scope of this work at 0.74 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Complaints are investigated with letters, phone calls and in-person interviews. Where appropriate, referrals are made to the impaired practitioner program.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review prior to initial licensure, periodic compliance audits and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for licensure review, compliance audits and complaint investigation. Existing staff within the agency perform the licensure review and compliance audits, and the internal time commitment isn't such that outsourcing either task would result in the elimination of agency staff – outsourcing would only lead to additional costs and time for staff to coordinate with an external service provider.

In addition, the rule attempts to provide consistency related to the licensure of barber and cosmetologist, nail technician, esthetician, electrologist, or instructors across the United States. DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

60.1: Removed language duplicative of statutory language and provided the Iowa Code and the Code of Federal Regulations reference: "Apprentice" "Apprenticeship Program", "Board", "Certified laser product", "Chemical exfoliation", "Depilatory", "Exfoliation", General supervision", "Intense pulsed light device", "Mechanical exfoliation", Microdermabrasion", and "Minor".

Removed redundant and obsolete language from the definition.

60.1: Removed redundant and obsolete language from the definition. "Reciprocal license".

60.1: Added the following definitions as a result of the board merger: "Mentoring", "Legacy curriculum",

“Prescribed practice” and “Shaving”.

60.1: Amended the following definition to incorporate the new name of the merged board: “Core curriculum”, “Examination”, “Licensee”, “Licensure by endorsement”, and “Practice discipline”.

60.2: Reordered the rule and added language to address the legacy boards, education received outside of Iowa and license holders who hold only a barber or cosmetology education while incorporating the new scope of practice for the merged board.

60.3: A new rule that incorporates all exam requirements for all application types that were scattered throughout the chapter.

60.4 - 60.5: Originally 60.3 - 60.4 Renumbered and amended to incorporate the new name of the merged board, added the new shaving certificate as directed by statute and provided guidance to legacy license holders.

60.6: Added the new name of the merged board.

60.7: Originally 60.8, Renumbered and and amended to incorporate the new name of the merged board, reference Iowa Code by citation and added the new shaving certificate as directed by statute and provided guidance to legacy license holders.

60.8: Originally 60.17, Renumbered and amended to incorporate the new name of the merged board.

RULES PROPOSED FOR REPEAL (list rule number[s]):

645—60.9 to 60.16

60.7: Rescinded and added to rule 60.2.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 60

LICENSURE OF BARBER AND COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS, NAIL
TECHNOLOGISTS, AND INSTRUCTORS
OF BARBER AND COSMETOLOGY ARTS AND SCIENCES

645—60.1(157) Definitions. In addition to the definitions included in Iowa Code Section 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 the following definitions apply to terms used in this chapter:

“*Active license*” means a license that is current and has not expired.

“*Core curriculum*” means the basic core life sciences curriculum that is required for completion of any course of study of the barbers and cosmetology arts and sciences except for manicuring.-

“*Examination*” means any of the tests used to determine minimum competency prior to the issuance of a barbering and cosmetology arts and sciences license.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace

period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Legacy curriculum*” means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools which, as applicable, comply with the administrative rules issued by the Iowa Board of Barbering or by the Iowa Board of Cosmetology Arts & Sciences that were in effect on June 30, 2023.

“*Licensee*” means any person or entity licensed to perform practice disciplines governed by the Board of Barbering and Cosmetology Arts & Sciences pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice barbering and cosmetology arts and sciences to an applicant who is or has been licensed in the District of Columbia or in another state, territory, province or foreign country who has held an active license under the laws of such other jurisdiction for at least 12 months during the last past 24 months.

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring*” means a program allowing students to experience barbering and cosmetology arts and sciences in a licensed salon under the guidance of a mentor.

“*NIC*” means the National-Interstate Council of State Boards of Cosmetology, Inc.

“*Pedicuring*” means the practice of cleaning, shaping or polishing the toenails.

“*Practice discipline*” means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

“*Prescribed practice*” means an area of speciality certified by the board within the scope of barbering and cosmetology arts and sciences.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—60.09(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Shaving*” means the manual cutting or removal of hair with a razor.

“*Testing service*” means a national testing service selected by the board.

645—60.2(157) Initial licensure.

60.2(1) Requirements for licensure. All persons providing services in one or more practice disciplines shall hold a license issued by the board. The applicant shall:

- a. Submit a completed online application and pay the nonrefundable fee specified in 645—subrule 5.5(1).
- b. Demonstrate professional competence in one of the following ways:
 - (1) Complete the licensure by endorsement application, if licensed in another jurisdiction. If the applicant is licensed in another jurisdiction as an electrologist, nail technician or esthetician then a successful applicant will receive a license in such practice discipline. If the applicant is licensed in another jurisdiction as a barber or as a cosmetologist, and the applicant is requesting licensure in the practice discipline of barbering and cosmetology, then a successful applicant will receive a license as a barber and cosmetologist. All applicants must provide a verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

(2) A person who is licensed in another jurisdiction who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

- c. Provide proof of completion of education.

(1) If the applicant graduated from a school that is licensed by the board, direct the educational program to submit to the board a diploma or an official transcript indicating date of graduation and completion of required hours in each practice discipline for which the applicant is requesting licensure.

(a) If an applicant graduates from a licensed school after completing a course of study constituting a legacy curriculum as prescribed in rule 645-61.14(6), such graduation will satisfy the education requirement for the applicable practice discipline for which the applicant is requesting licensure. For purposes of this subrule, a legacy curriculum in barbering or a legacy curriculum in cosmetology will be sufficient proof of education for an applicant requesting a license to practice barbering and cosmetology.

(2) If the applicant graduated from a school that is not licensed by the board, direct the school to provide an official transcript showing completion of a course of study that meets the requirements of rule 645—61.14(157).

(3) If the applicant has graduated from an apprenticeship program, the applicant must direct the Iowa Office of Apprenticeship registered apprenticeship program to submit a certificate of completion.

(4) If the applicant was educated outside the United States, attach an original evaluation of the applicant's education from any accredited evaluation service.

60.2(2) Requirements for an instructor's license. An applicant for an instructor's license shall:

- a. Submit a completed application for licensure and the appropriate fee to the board;
- b. Be licensed in the state of Iowa in the prescribed practice discipline to be taught or be licensed as a barber and cosmetologist who possesses the skill and knowledge required to instruct in that practice discipline;
- c. Provide documentation of completion of 1,000 hours of instructor's training or two years' active practice in the field of barbering and cosmetology, esthetics, electrology, or nail technology within six years prior to application;
- d. For an instructor of electrology license, submit proof of 60 hours of practical experience, excluding school hours, in the area of electrolysis prior to application.
- e. Pass an instructor's national examination, which, effective January 1, 2008, shall be the NIC

instructor examination unless the applicant is applying for an instructor's license by endorsement as outlined in rule 645—60.2(1)"b"(157).

60.2(3) Conditions. The following conditions apply for all licenses.

a. Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

b. Licensees who were issued their initial licenses within six months prior to the license renewal beginning date are not required to renew their licenses until the renewal month two years later.

c. The board may issue a single license number and expiration date to licensees who hold licenses in multiple practice disciplines.

645—60.3(157) Examination requirements.

60.3(1) Pass a national examination prescribed by the board for the particular practice discipline with a score of 75 percent or greater.

(a) The applicant shall submit the test registration fee directly to the test service. NIC examinations are administered according to guidelines set forth by the National-Interstate Council of State Boards of Cosmetology.

60.3(2) If applying for licensure by endorsement, applicants who graduated from a barber or cosmetology school prior to January 1, 2000, shall have passed the state written and practical examination required by the state in which the applicants were originally licensed.

60.3(3) Applicants who graduated from a barber or cosmetology school after January 1, 2000, shall have passed a national theory examination for the discipline in which they seek licensure.

60.3(4) Applicants for the barbering and cosmetology license who graduated from a barber or cosmetology school after July 1, 2023, shall have passed a national theory examination. Shaving with a razor requires additional certification by the board.

645—60.4(157) Criteria for licensure in prescribed practice disciplines.

60.4(1) A barbering and cosmetology license is not a requirement for an electrology, esthetics, or nail technology license.

60.4(2) Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

60.4(3) Theory hours earned in each practice discipline of barber and cosmetology arts and sciences may be used in applying for a barbering and cosmetology license.

60.4(4) A barber and cosmetologist licensed after July 1, 2005, is not eligible to be certified in chemical peels, microdermabrasion, laser or intense pulsed light (IPL) and shall not provide those services.

60.4(5) Licensees must hold a shaving certificate, or the license will be restricted from the practice of shaving. An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold a shaving certificate.

60.4(6) Pedicuring shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 645 IAC chapter 63.

60.4(7) Waxing shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 645 IAC chapter 63.

60.4(8) An initial license to practice manicuring shall not be issued by the board after December 31, 2007. A manicurist license issued on or before December 31, 2007, may be renewed subject to licensure requirements identified by statute and administrative rule unless the license becomes inactive. A

manicurist license that becomes inactive cannot be reactivated or renewed.

60.4(9) Any person previously licensed as a barber prior to the effective date of this rule, pursuant to IAC 645-21 will, upon successful renewal of such license, receive a barbering and cosmetology license.

60.4(10) Any person previously licensed as a cosmetologist prior to the effective date of this rule, pursuant to this chapter will, upon successful renewal of such license, receive a barbering and cosmetology license.

645—60.5(157) Prescribed practice training requirements. As outlined below, the board may approve a licensee to provide the prescribed practice services of shaving, microdermabrasion, chemical exfoliation, laser services, and IPL hair removal treatments, once a licensee has complied with training requirements and submitted a completed application, the required supporting evidence, and applicable fees as specified in these rules. The applicant shall receive a certification following board approval.

60.5(1) Shaving for hair removal.

a. Shaving shall only be performed by a barber and cosmetologist who is certified by the board to perform those services. A barber licensed before July 1, 2023, is exempt from this requirement.

b. Shaving shall only be used for hair removal on the scalp, face or neck.

c. In order to receive board certification and be eligible to perform shaving for hair removal services, the licensee must complete a shaving program or pass an exam as outlined below:

(1) Provide evidence of passing the NIC barber practical exam or a national barber practical exam.

(a) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable; OR

(2) Complete a 40 hour shaving program from an Iowa licensed school, or program sponsored by an Iowa licensed school, that is conducted by a licensed instructor who has specialized education, training and experience by reason of which said licensed instructor should be considered qualified concerning the subject matter of the program,

a. Obtain from the program a certification of training that contains the following information:

Date, location, course title;

Name and license number of the instructor;

Number of contact hours;

Evidence that the training program includes a safety training component which provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of skin care, blood-borne pathogens and infection control.

60.5(2) Microdermabrasion.

a. Microdermabrasion shall only be performed by a licensed, certified esthetician or a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board.

b. To be eligible to perform microdermabrasion services, the licensee shall:

(1) Complete 14 contact hours of education specific to the material or apparatus used for microdermabrasion. Before an additional material or apparatus is utilized in the licensee's practice, the licensee shall provide official certification of training on the material or apparatus.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;

2. Number of contact hours; and

3. Specific identifying description of the microdermabrasion machine covered by the course.

4. Evidence that the training program includes a safety training component which provides a thorough

understanding of the procedures to be performed. The training program shall address fundamentals of potential hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

60.5(3) Chemical exfoliation.

a. Chemical exfoliation shall only be performed by a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board to perform those services. Additional certification is not required for licensed estheticians.

b. Chemical exfoliation procedures are limited to the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by these rules. This procedure is not intended to elicit viable epidermal or dermal wounding, injury, or destruction.

c. To be eligible to perform chemical peels, a cosmetologist who was licensed prior to July 1, 2005, shall:

(1) Complete 21 hours of training specific to the process and products to be used for chemical peels. Before an additional process or product is utilized in the licensee's practice, the licensee shall provide official certification of training on the new process or product.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;
2. Number of contact hours; and
3. Specific identifying description of the chemical peel process and products covered by the course.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(15). The fee is nonrefundable.

60.5(4) Laser services.

a. A cosmetologist licensed after July 1, 2005, shall not use laser products.

b. An electrologist shall only provide hair removal services when using a laser.

c. Estheticians and cosmetologists shall use a laser for cosmetic purposes only.

d. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform laser services.

e. When a laser service is provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

f. To be eligible to perform laser services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each laser machine, model or device to be used for laser services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;
2. Number of contact hours;
3. Specific identifying description of the laser equipment; and

4. Evidence that the training program includes a safety training component which provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

60.5(5) IPL hair removal treatments.

b. A cosmetologist licensed after July 1, 2005, shall not use IPL devices.

c. An IPL device shall only be used for hair removal.

d. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform IPL services.

e. When IPL hair removal services are provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

f. To be eligible to perform IPL hair removal services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each IPL machine, model or device to be used for IPL hair removal services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;

2. Number of contact hours;

3. Specific identifying description of the IPL hair removal equipment; and

4. Evidence that the training program includes a safety training component which provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

60.5(6) Health history and incident reporting.

a. Prior to providing laser or IPL hair removal, microdermabrasion or chemical peel services, the cosmetologist, esthetician, and electrologist shall complete a client health history of conditions related to the application for services and include it with the client's records. The history shall include but is not limited to items listed in paragraph 60.4(5) "b."

b. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, IPL device, chemical peel, or microdermabrasion shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include the following:

(1) A description of procedures;

(2) A description of the physical condition of the client;

(3) A description of any adverse occurrence, including:

1. Symptoms of any complications including, but not limited to, onset and type of symptoms;

2. A description of the services provided that caused the adverse occurrence;
3. A description of the procedure that was followed by the licensee;
- (4) A description of the client's condition on termination of any procedures undertaken;
- (5) If a client is referred to a physician, a statement providing the physician's name and office location, if known;
- (6) A copy of the consent form.

60.5(7) Failure to report. Failure to comply with paragraph 60.4(5) "b" when the adverse occurrence is related to the use of any procedure or device noted in the attestation may result in the licensee's loss of authorization to administer the procedure or device noted in the attestation or may result in other sanctions provided by law.

60.5(8) A licensee shall not provide any services that constitute the practice of medicine.

645—60.6(157) Licensure restrictions relating to practice.

60.6(1) A certified laser product or an intense pulsed light device shall only be used on surface epidermal layers of the skin except for hair removal.

60.6(2) A laser hair removal product or an intense pulsed light device shall not be used on a minor unless the minor is accompanied by a parent or guardian and then shall be used only under general supervision of a physician.

60.6(3) Persons licensed under Iowa Code chapter 157 shall not administer any practice of removing skin by means of a razor-edged instrument.

60.6(4) Persons licensed under this chapter who provide hair removal, manicuring and nail technology services shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered, except for the use of a cuticle nipper.

60.6(5) Board-certified licensees providing shaving, microdermabrasion, chemical peels, laser or IPL hair removal treatments in an establishment shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, chiropractic or acupuncture.

60.6(6) Barber and cosmetologists licensed prior to July 1, 2005, and licensed estheticians shall only perform medical aesthetic services in a medical spa under the delegation and supervision of a medical director as set forth by the Iowa board of medicine in rule 653—13.8(148,272C). The Iowa board of barbering and cosmetology arts and sciences does not license medical aestheticians.

60.6(7) Persons licensed under this chapter who provide apprenticeship programs must hold an active license sufficient to provide on-the-job training, must operate in an actively licensed establishment, and must comply with relevant Iowa Office of Apprenticeship laws and regulations for the operation of an apprenticeship program.

60.6(8) Licensees may only perform those services for which they possess the skill and knowledge required to perform the service in a professionally competent manner as set forth in in Iowa Code Chapter 157 and the related administrative rules and regulations.

645—60.7(157) Consent form requirements. A licensed esthetician, barber and cosmetologist, or electrologist, prior to providing services relating to a certified laser product, intense pulsed light device, chemical peel, or microdermabrasion, shall obtain from a client a consent form that:

2. Specifies in general terms the nature and purpose of the procedure(s);
3. Lists known risks associated with the procedure(s) if reasonably determinable;
4. States an acknowledgment that disclosure of information has been made and that questions asked about the procedure(s) have been satisfactorily answered;

5. Includes a signature of either the client for whom the procedure is performed or, if that client for any reason lacks legal capacity to consent, includes the signature of a person who has legal authority to consent on behalf of that client in those circumstances.

645—60.8(157) License renewal.

60.8(1) Biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

a. The board may send a renewal notice by regular mail to each licensee at the address on record prior to the expiration of the license.

b. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

c. A new or reactivated license granted by the board to a licensee who holds a current license in another practice discipline in barbering and cosmetology arts and sciences may have the same license expiration date as the licensee's other license(s). If the licensee does not have another active license with the board, the license expiration date shall be in the current renewal period unless the license is issued within six months of the end of the renewal cycle and subrule 60.8(2) applies.

60.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

60.8(3) License renewal. A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—64.2(157). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed online renewal application and renewal fee and upload certificate(s) of completion for related continuing education before the license expiration date.

c. Licensees currently licensed in Iowa but practicing exclusively in another state or serving honorably as active duty military or the spouse of active duty military service personnel may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due. [Iowa Code Chapter 272C.2(4)].

60.8(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

60.8(5) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.5(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

60.8(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice barbering and cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices barbering and cosmetology arts and sciences in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

60.8(7) Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from

the initial licensing until the second license renewal may be used.

645—60.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

60.9(1) Submit a reactivation application on a form provided by the board.

60.9(2) Pay the reactivation fee that is due as specified in rule 645—5.5(147,157).

60.9(3) Provide verification of current competence to practice barbering and cosmetology arts and sciences by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 6 hours of continuing education that meet the continuing education standards defined in rule 645—64.3(157,272C) within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education that meet the continuing education standards defined in rule 645—64.3(157,272C) within two years of application for reactivation.

(3) Rescinded IAB 11/21/07, effective 1/1/08.

60.9(4) Licensees who are instructors of barbering and cosmetology arts and sciences shall obtain an additional 6 hours of continuing education in teaching methodology as prescribed in 645—Chapter 64.

645—60.10 (17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—60.9(17A,147,272C) prior to practicing barbering and cosmetology arts and sciences in this state.

These rules are intended to implement Iowa Code chapters 272C and 157.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	7 reserved rules removed
Proposed word count reduction after repeal and/or re-promulgation	555 reduction, it might be worth mentioning that these amendments constitute a merger of 645 IAC Chapter 60 with 645 IAC Chapter 21, the latter of which is thereby eliminated in its entirety. This yields a net reduction in word count to 645 IAC 21 by 5119 word.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5 reduction, , it might be worth mentioning that these amendments constitute a merger of 645 IAC Chapter 60 with 645 IAC Chapter 21, the latter of which is thereby eliminated in its entirety. This yields a net reduction of 80 (75 + 5) uses of restrictive terms between the chapters.

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/25/2023	Total Rule Count:	24
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 61	Iowa Code Section Authorizing Rule:	17A, 147, 157 and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dia.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa residents, licensees and employers benefit from the rule as it clarifies the processes by which an individual may apply for licensure of establishments and schools in order to provide barber and cosmetology arts and sciences services, as directed in statute.

The rule publicly illustrates the process that will be used for initial licensure, including renewal and reinstatement, for fixed and readily moveable establishment to ensure public safety through identification of the limited services allowed outside of a licensed establishment and the requirement to inform the public when services are provided by non-licensees, such as blow-dry stylists, students and apprentices, where applicable.

For the schools, the rule describes the application process, course of study requirements, physical requirements for schools of barbering and cosmetology arts and sciences including minimum equipment requirements, classroom use and public notices, as well as record keeping for student attendance, accelerated learning policies, and mentoring contracts.

The rules also articulate the merger of the board of barbering with the board of cosmetology arts and sciences, providing guidance for legacy license holders and legacy schools.

Is the benefit being achieved? Please provide evidence.

Yes, the rule satisfies the statutory requirement, establishing a clear process for the licensing of establishments. The rules provide guidance to instructors and students and ensure that establishment and school owners who do not hold a license in any of the prescribed disciplines understand infection control and the laws and rules under which licensees must operate, including public posting requirements.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to own a school or establishment are at the expense of the licensee. This includes a lease, hiring licensed staff and or instructors in the case of a school, compliance with Iowa laws and rules and proper equipment for service delivery and observation of infection control standards.

IOWA Establishment Initial & Renewal Licensure Fees are below:

Establishment License \$72
School 1-year License Fee: \$600
Schools Renew Annually at \$270

Minnesota Board of Cosmetologist Examiners Initial & Renewal Licensure Fee are below:

Cosmetology Salon Three- year License Fee (2022 Minnesota Statute 155A.25) \$350 initial salon license, divided as follows:

- \$250 for each initial license; and
- \$100 for each initial license application fee
-

School Three- year License Fee: \$4,000 initial school license, divided as follows:

- \$3,000 for each initial license; and
- \$1,000 for each initial license application fee

School Renewal License Fee: \$2,500 renewal of school license, divided as follows:

- \$2,000 for each renewal; and
- \$500 for each renewal application fee.

Minnesota Board of Barber Examiners Initial and Renewal Licensure

Barber Shop Annual License Fee: \$85

Renewal Barber Shop Annual License Fee: \$85

Barber School Initial License Fee: \$1030

Renewal Barber School Annual License Fee: \$280

Retrieved from https://mn.gov/boards/assets/BBE%20Fee%20Schedule%20mar302018_tcm21-35325_tcm21-35325.pdf

Nebraska Department of Health and Human Services Cosmetology and Esthetics

Salon Two-year Initial License Fee: \$150

Renewal Two-year License Fee:

Cosmetology School Two-year Initial License Fee: \$300

Renewal Two-year License Fee:

Retrieved from <https://dhhs.ne.gov/licensure/Pages/Cosmetology-and-Esthetics.aspx>

Nebraska Board of Barber Examiners

Barber Shop Two-year License Fee: \$220

Renewal: \$120

Barber School Two-year License Fee: \$900

Renewal Two-year License Fee: \$400

Retrieved from <https://barbers.nebraska.gov/fees.html>

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application, annually for schools and during reinstatement for establishment owners. If a licensee was disciplined in another state, the application may be forwarded to the

full board for additional review prior to initial licensure or reinstatement. Licensure by consent agreements and discipline imposed by the board are monitored by office staff.

Complaints are investigated with letters, phone calls and in-person interviews. Where appropriate, referrals are made to the impaired practitioner program.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. By licensing these professionals and establishments, this practice is regulated. The cost of inaction would increase the potential for injury and harm to the public that would remain unchecked without review prior to initial licensure and periodic compliance audits. Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated with competent and qualified practitioners with knowledge of topics including infection control, which is pertinent to the profession to ensure safety and welfare of the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for licensure review, annual school inspections and complaint investigation. The Board believes all current requirements assure public safety and ensure a minimum competency of service is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans in that scenario. Through HF 652, the practice requirements were recently updated to reflect the merging of barber and cosmetology arts and sciences.

DIAL will be acquiring a single licensing platform, which will standardize systems across the Licensing Division. This will ultimately lead to efficiency, but a database has not been selected at this time.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by HF 652 for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

61.1: Removed language duplicative of statutory language and provided the Iowa Code and the Code of Federal Regulations reference: “Apprentice”, “Apprenticeship Instructor”, “Apprenticeship Program”, and “Apprenticeship sponsor”.

61.1: Added the following definitions as a result of the board merger: “Legacy curriculum”.

61.1: Amended and moved this definition from rule 61.7(10) to the list of definitions “Change of ownership”.

61.1: Amended the following definitions to incorporate the new terms as directed by statute and added name of the merged board to provide clarity: “Inactive license”, “Mentoring”, “Salon license”, “School”, and “School license”.

61.2 - 61.6: Renumbered and replaced the word “salon” with “establishment”, reordered the rule and added the new board name, establishment designations of fixed and readily moveable as adding the new term “blow-dry stylist” as directed by statute.

61.7: Renumbered and removed restrictive language and added the new board name, amended the requirement for licensure of a school, and added language to address the legacy schools.

61.8 -61.10: Renumbered and Reduced words.

61.10: Renumbered and Reordered by moving rule from 61.24 to this section for clarity.

61.11: Previously rescinded - Removed.

61.12: Amended to include the new board name to reflect the merger.

61.13: Amended to include the new board name to reflect the merger and updated minimum equipment requirements to incorporate barber and cosmetology scope in the school.

61.14: Amended to include Iowa Code references, added the new board name to reflect the merger and updated the minimum course of study requirements to include barbering and reflect the reduction from 2100 clock hours/70 semester credit hours to 1500 clock hours/51 semester credit hours as directed by statute. Added transition language for the beginning of the new barber and cosmetology curriculum and added language to address the legacy schools.

61.15: Added transition language to address scope of practice for legacy barber license holders and added the name of the merged board and replaced “salon” with “establishment”.

61.16 - 61.19: Added the name of the merged board.

61.20: Replaced “salon” with “establishment”.

61.21 - 61.22: Added the name of the merged board “barbering and” in front of “cosmetology arts and sciences”.

61.23: Amended as directed by statute in HF 652.

61.24: Amended to include public notice for blow-dry stylists and the limited services they may only provide in a licensed establishment as directed by statute in HF 652.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 61
 LICENSURE OF ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY ARTS
 AND SCIENCES

645—61.1(157) Definitions. In addition to the definitions included in Iowa Code Section 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 the following definitions apply to terms used in this chapter: “Change in ownership” means any of the following: a new owner of a sole proprietorship; the addition, removal, or replacement of any co-owner(s) in a partnership; or a change of controlling interest in any corporation.

“Clinic area” means the area of the school where the paying customers will receive services.

“Dispensary” means a separate area to be used for storing and dispensing of supplies and sanitizing of all implements.

“Establishment license” means a license issued to an Iowa establishment, as defined in Iowa Code 157.1(10A), to provide barbering and cosmetology arts and sciences services.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Legacy curriculum” means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools which, as applicable, comply with the administrative rules issued by the Iowa Board of Barbering or by the Iowa Board of Cosmetology Arts & Sciences that were in effect on June 30, 2023.

“Mentor” means a licensee providing guidance in a mentoring program.

“Mentoring” means a program allowing students in a school to experience barbering and cosmetology arts and sciences in a licensed establishment under the guidance of a mentor.

“On-the-job trainer” means the individual providing instruction and supervision of the apprenticeship program practical hours. This individual must be a licensee of the board in the discipline for which the individual is training, and the training must occur in a licensed establishment.

“School” means a school of barbering and cosmetology arts and sciences.

“School license” means a license issued to an establishment that is a fixed location for the instruction of students in barbering and cosmetology arts and sciences.

645—61.2(157) Establishment licensing. No person shall operate an establishment unless the owner has obtained a license issued by the board. A separate enclosed area inside an establishment that is operated as an independent business for the purpose of providing barbering and cosmetology services shall be considered its own establishment and shall not operate unless an establishment license is obtained. To determine what defines an independent contractor versus an employee, persons should contact the Iowa division of labor services.

61.2(1) The owner shall complete a board-approved application form accompanied by the appropriate fees payable by check or money order to the Board of Barbering and Cosmetology Arts and Sciences. The fees are nonrefundable. The application shall be completed according to the instructions contained in the application and submitted 30 days prior to the anticipated opening day. If the application is not completed according to the instructions, the application will not be reviewed by the board.

61.2(2) Each establishment shall meet the requirements for sanitary conditions established in 645—Chapter 63 to be eligible for licensing. The establishment may be inspected for compliance with sanitation rules within 12 months following the issuance of the establishment license.

a. The establishment license may be for a fixed location or a location that is readily movable.

(1) Stationary establishment. A stationary establishment license shall be issued for a specific location. A change in location or site of a stationary establishment shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 5.2(7). A change of address without change of actual location shall not be construed as a new site.

(2) Readily movable establishment. A readily movable establishment license shall be issued for a permanent physical address. The licensee is required to provide a permanent physical address for

board correspondence. A readily movable establishment may operate in a legal parking spot or on private property, with the permission of the owner or the owner's designee, anywhere in the state of Iowa provided the readily movable establishment is operating in compliance with applicable federal and state transportation, environmental, and sanitary regulations, including those in this chapter and in 645 - Chapter 63.

(3) Establishment owner's contact information. The listed owner of either a stationary or readily movable establishment must update the board within 30 days of a change in contact information, which includes telephone number, email address, and mailing address.

61.2(3) Business may commence at the establishment following activation of the license.

61.2(4) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

61.2(5) An establishment license shall be issued for a specific location. A change in location or site of an establishment shall require submission of an application for a new license and payment of the fee required by 645—subrule 5.5(11). A change of address without change of actual location shall not be construed as a new site.

61.2(6) An establishment license is not transferable.

a. A change in ownership of an establishment shall require the issuance of a new license.

b. An establishment cannot be sold if disciplinary actions are pending.

c. If an establishment owner sells the establishment, that owner must send the license certificate and a report of the sale to the board within 10 days of the date on which the sale is final. The owner of the establishment on record shall retain responsibility for the establishment until the notice of sale is received in the board office.

d. The board may request legal proof of the ownership transfer.

e. If the name or the address of an establishment changes, the owner shall notify the board within 30 days of such change. Additionally, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 645—5.5(147,157).

645—61.3(157) Readily movable establishment. A mobile home, motor home, trailer, or other recreational vehicle may be used as a readily movable establishment if it complies with the following:

61.3(1) The owner shall possess a current readily movable establishment license issued by the board.

61.3(2) The owner shall complete a board-approved application.

61.3(3) The readily movable establishment's owner's telephone number, email address, and permanent address must be included on the application for licensure and must be updated and accurate.

61.3(4) No service may be performed on a client in a moving vehicle. Services shall be performed in a readily movable establishment that is parked in a legal parking spot.

61.3(5) Readily movable establishments must provide:

a. A supply of hot and cold water;

b. Adequate lighting;

c. A floor surface in the service area that is nonabsorbent and easily cleanable;

d. Work surfaces that are easily cleanable;

e. Cabinets secured with safety catches wherein all chemicals shall be stored when the vehicle is moving;

f. A first-aid kit that includes adhesive dressing, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

61.3(6) A readily movable establishment must comply with all rules in 645—Chapter 63, Infection Control for Establishments and Schools of Barbering and Cosmetology Arts & Sciences, except rules 645—63.6(157) through 645—63.8(157).

645—61.4(157) Establishment license renewal.

61.4(1) The biennial license renewal period for an establishment license shall begin on January 1 of every odd-numbered year and end on December 31 two years later.

61.4(2) A renewal of license notice shall be electronically mailed to the owner of the establishment prior to the expiration of the license. Failure to receive the renewal notice shall not relieve the owner of the obligation to pay the biennial renewal fee on or before the renewal date.

61.4(3) An establishment that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

61.4(4) The establishment owner shall submit the completed application with the renewal fee to the board office before the license expiration date.

61.4(5) An establishment shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the establishment shall be issued a license renewal.

61.4(6) If the renewal fee and renewal application are received in the office after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

645—61.5(272C) Inactive establishment license.

61.5(1) An establishment that has not renewed the establishment license within the required time frame will have an inactive license and shall not provide cosmetology services until the license is reactivated.

61.5(2) To reactivate an establishment license, the reactivation application and fee shall be submitted to the board office.

645—61.6(157) Display requirements for establishments.

61.6(1) Every establishment shall have a sign visible outside the entrance designating the place of business.

61.6(2) The most current establishment license proof of renewal shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

61.6(3) The most current license proof of renewal for each licensee working in the establishment shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

61.6(4) If the licensee works in more than one establishment, the current proof of renewal shall be posted in the primary place of practice, and the licensee shall be able to provide the renewal upon request.

61.6(5) Each licensee, blow-dry stylist and apprentice shall have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

645—61.7(147) Duplicate certificate for establishments.

61.7(1) A duplicate certificate shall be required if the current certificate is lost, stolen or destroyed. A duplicate certificate shall only be issued under such circumstances.

61.7(2) A duplicate establishment certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 645—subrule 5.5(5).

61.7(3) If the board receives a completed application stating that the owner of the establishment has not received the certificate within 60 days after the certificate is mailed by the board, no fee shall be required for issuing the duplicate certificate.

645—61.8(157) Licensure for schools of barbering and cosmetology arts and sciences.

61.8(1) An application for a school license shall be submitted 90 days prior to the anticipated opening day of the school. Prior to board review, the application shall include:

a. The exact location of the proposed school including a copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year; a complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to classrooms, clinic space, and a mentoring program;

b. A list of the names of licensed instructors including the school director(s) for the proposed school if the instructors and school director(s) have been hired by the school at the time of application;

c. Copies of the catalog, brochure, enrollment contract, student policies, and cancellation and refund policies that will be used by the school or distributed by the school to students and the public; and

d. The school's course of study and curriculum, which shall meet the course of study requirements outlined in rule 645—61.14(157).

61.8(2) Prior to issuance of the school license, the school shall:

a. Submit a final list of licensed instructors and director(s) hired for the school. The number of instructors must meet the requirement outlined in Iowa Code section 157.8, with the exception of instructors for the mentoring program; and

b. Meet the requirements of this chapter and 645—Chapter 63 and pass the board's inspection of the facility.

61.8(3) The school owner may be interviewed by the board during the review of the application.

61.8(4) After all criteria have been met, the school license shall be granted for the location(s) identified in the school's application.

61.8(5) Instruction of students shall not begin until the school license is activated.

61.8(6) The school must provide proof of registration with the Iowa college student aid commission.

61.8(7) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records shall be maintained after two years only if the applicant submits a written request to the board.

61.8(8) Existing school license, new location. A change of location shall require submission of an application for a new school license and payment of the license fee 90 days in advance of the anticipated date of opening. A change of address without a change of actual location shall not be construed as a new site.

61.8(9) Existing school license, new name. The owner shall notify the board in writing of a change of name within 30 days after the occurrence. In addition, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 645—5.5(147,157).

61.8(10) Existing school license, change of ownership. A school license is not transferable. A change in ownership of a school shall require the issuance of a new license. A school cannot be sold if disciplinary actions are pending.

a. The board may request legal proof of the ownership transfer.

b. If a school owner sells the school, that owner must send the license certificate and a report of the sale to the board within ten days of the date on which the sale is final. The owner of the school on record shall retain responsibility for the school until the new school owner has been issued an active school license.

c. The new school owner shall follow all requirements as outlined in rule 645—61.7(157). This rule is intended to implement Iowa Code sections 147.80, 157.6 and 157.8.

61.8(11) Any school licensed as a barber school under rule 645—23.2 prior to the effective date of this rule will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences. Any school licensed as a cosmetology arts and sciences school under this chapter prior to the effective date of this rule will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences.

645—61.9(157) School license renewal.

61.9(1) The annual license renewal period for a school license shall begin on July 1 and end on June 30 one year later.

a. The online renewal application and renewal fee shall be submitted before the license expiration date.

b. Schools shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the school shall be issued a license renewal.

c. Schools shall successfully complete the annual inspection pursuant to Iowa Code sections 157.6 and 157.8.

61.9(3) A school that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal one year later.

61.9(4) If the renewal fee and renewal application are submitted after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

645—61.10(272C) Inactive school license.

61.10(1) If the renewal application and fee are not received in the office within 30 days after the license expiration date, the school license is inactive. To reactivate the school license, the reactivation application and fee shall be submitted to the board.

61.10(2) A school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reactivated.

645—61.11(157) Display requirements for schools.

61.11(1) Every school shall have a sign visible outside the entrance designating the place of business.

61.11(2) A school license and the current proof of renewal shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

61.11(3) The current license proof of renewal for each instructor working at the school shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

61.11(4) Advertisements for a school of barbering and cosmetology arts & sciences shall indicate that all services are performed by students under the supervision of instructors.

61.11(5) A sign shall be clearly displayed in the entrance of a school of barbering and cosmetology arts & sciences that indicates in prominent lettering that students perform all services under the supervision of instructors.

645—61.12(157) Physical requirements for schools of cosmetology arts and sciences. The school shall meet the following physical requirements:

61.12(1) The school premises shall have a minimum floor space of 3,000 square feet.

61.12(2) Each school shall provide a minimum of 100 square feet per student. When the enrollment in a school exceeds 30 students, additional floor space of 30 square feet shall be required for each additional student enrolled in the school.

61.12(3) Each licensed school offering a full barbering and cosmetology arts and sciences curriculum shall provide the following:

a. At least one clinic area where the paying public will receive services. The clinic area shall be confined to the premises occupied by the school.

b. A theory classroom(s) separate from the clinic area.

c. A library that is maintained for students and consists of textbooks, current trade publications and business management materials.

d. A separate area that shall be used as a dispensary. The dispensary shall be equipped with a lavatory, shelves or drawers for storing chemicals, cleansing agents and items, sterilization equipment and any other sanitation items required by 645—Chapter 63. Clean items and dirty items in the dispensary must be kept separated as required by 645—Chapter 63.

e. Two restrooms that are equipped with toilets, lavatories, soap and disposable paper towel dispensers.

f. A laundry room that is separated from the clinic area by a full wall or partition. Students may not lounge, eat, practice or study in the laundry room.

g. A separate room that is equipped for the practice of esthetics and electrology.

h. An administrative office.

61.12(4) Each licensed school offering a single discipline barbering and cosmetology arts and sciences curriculum shall provide the same physical space as outlined in 61.12(3). Single discipline schools are exempt from 61.12(3) “g” if the board did not originally approve an electrology or esthetics course of study in the curriculum.

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

645—61.13(157) Minimum equipment requirements. Each school of barbering and cosmetology arts and sciences shall have the following minimum equipment:

1. Workstations equipped with chair, workstation, closed drawer or container for sanitized articles, and mirror (maximum of two students per unit);

2. Treatment room(s) when electrology or esthetics or both are offered;

3. One set of hardcopy or electronic textbooks for each student and instructor;

4. Adequate number of sShampoo bowls and chairs with headrests located in the clinic area and readily accessible for students and clients if the school offers a curriculum course in barbering and cosmetology;

5. Maintain adequate equipment to perform all services in a safe and sanitary manner;

6. Audiovisual equipment available for each classroom;

7. Chair and table area for each student in the classroom; and

• 8. One set of files shall be maintained for all required records.

• 9. Labeled bottles and containers showing intended use of the contents.

•

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

645—61.14(157) Course of study requirements. A school of barbering and cosmetology arts and sciences shall not be approved by the board of barbering and cosmetology arts and sciences unless it complies with the course of study requirements as provided below.

61.14(1) Requirements for hours.

a. BARBERING /COSMETOLOGY CURRICULUM: Supervised practical instruction, theory and demonstrations totaling 1550 hours must include Core Life Science hours and all practices within this scope outlined in Iowa Code Chapter 157.1(5).

Core life sciences 150 hours

Barbering and Cosmetology theory

(Including business and management related to the practice of cosmetology.)

Total core life sciences and barbering and cosmetology theory is 590 hours.

440 hours

Applied practical instruction

960 hours

Total course of study 1550 hours (51 semester credit hours)

b.ELECTROLOGY CURRICULUM: Supervised practical instruction, theory and demonstrations totaling 425 hours must include Core Life Science hours and all practices within the scope as outlined in Iowa Code Chapter 157.1(10).

Core life sciences 150 hours
Electrology theory 50 hours

Applied practical instruction 225 hours
Total course of study 425 hours
(14 semester credit hours)

c.ESTHETICS CURRICULUM: Supervised practical instruction, theory and demonstrations must include Core Life Science hours all practices within the scope as outlined in Iowa Code Chapter 157.1(12).

Core life sciences 150 hours
Esthetics theory 115 hours

Applied practical instruction 335 hours
Total course of study 600 hours
(20 semester credit hours)

d.NAIL TECHNOLOGY CURRICULUM: Supervised practical instruction, theory and demonstrations must include Core Life Science hours all practices within the scope as outlined in Iowa Code Chapter 157.1(24).

Core life sciences 150 hours
Nail technology theory 50 hours

Applied practical instruction 125 hours
Total course of study 325 hours
(11 semester credit hours)

Proof of curriculum requirements may be submitted to the board by either the clock hour or semester credit hour standard. Semester credit hours or the equivalent thereof shall be determined pursuant to administrative rules and regulations promulgated by the U.S. Department of Education.

61.14(2) Curriculum requirements.

- a. Theory instruction shall be taught from a standard approved textbook but may be supplemented by other related textbooks. Online coursework is allowed for theory instruction.
- b. Course subjects taught in the school curriculum, including skills and business management, shall relate to the specific practice discipline.
- c. Required hours for theory and applied practical hours do not have to be obtained from one school.
- d. Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline. Online coursework is allowed for core life sciences instruction.
- e. Clock hours may be converted to credit hours using a standard, recognized method of conversion. Only hours from accredited or board-approved school programs will be accepted.

61.14(3) Core life sciences curriculum. The core life sciences curriculum shall contain the following instruction:

- a. Human anatomy and physiology: Cell, metabolism and body systems, Human anatomy;
- b. Bacteriology;

- c. Infection control practices: Universal precautions, Sanitation, Sterilization, Disinfection;
- d. Basic chemistry;
- e. Matter;
- f. Elements: Compounds and mixtures;
- g. Basic electricity;
- h. Electrical measurements: Reproduction of light rays, Infrared rays, Ultraviolet rays, Visible rays/spectrum;
- i. Safety;
- j. Hygiene and grooming: Personal and professional health;
- k. Professional ethics;
- l. Public relations; and
- m. State and federal law, administrative rules and standards.

61.14(4) The school shall maintain a copy of the curriculum plan as directed by the school’s accrediting agency or, if not subject to an accrediting agency, for a minimum of three years after the curriculum plan was taught by the school.

61.14(5) A school initially licensed after the effective date of this rule must offer a curriculum and course of study for one or more practice disciplines as prescribed in rule 645-61.14(1)-(3).

61.14(6) For a school licensed prior to the effective date of this rule, the following rules apply:

- a. Students enrolling in the school on or after August 1, 2024, must be taught a curriculum and course of study for one or more practice disciplines as prescribed by rule 645.61.14(1)-(3).
- b. Students enrolling in the school prior to August 1, 2024, may either be taught:
 - (1) A curriculum and course of study for one or more practice disciplines prescribed by rule 645-61.14(1)-(3); or
 - (2) A legacy curriculum in one or more practice disciplines. Any student graduating from a school after completing a legacy curriculum pursuant to this subrule will satisfy the education requirement for licensure as provided in rule 645-60.2(1)(c)(1)(a).

645—61.15(157) Instructors. All instructors in a school of cosmetology arts and sciences shall be licensed by the department.

61.15(1) An instructor teaching a course in electrology, esthetics or nail technology shall also hold a license in that practice discipline or hold a barbering and cosmetology license that shows proof of having completed training in those practices equivalent to that of a license holder in that practice.

61.15(2) An instructor teaching a course in shaving, microdermabrasion, chemical peels, intense pulsed lights (IPLs) and lasers shall be certified by the state of Iowa to provide each of the services, as set forth in rule 645—60.4(157). An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold a shaving certificate.

61.15(3) A minimum of two instructors shall be employed on a full-time basis for up to 30 students and an additional instructor for each additional 15 students.

- a. The number of instructors for each school of barbering and cosmetology arts and sciences shall be based upon total enrollment.

b. A student instructor shall not be used to meet licensed instructor-to-student ratios.

c. A school with less than 30 students enrolled may have one licensed instructor on site in the school if offering only clinic services or only theory instruction in a single classroom and less than 15 students are present.

d. If a school is offering clinic services and theory instruction simultaneously to less than 15 students, at least two licensed instructors must be on site.

e. Area community colleges operating a school prior to September 1, 1982, with only one instructor per 15 students are not subject to this subrule and may continue to operate with the ratio of one instructor to 15 students. A student instructor shall not be used to meet licensed instructor-to-student ratios.

61.15(4) An instructor shall:

a. Be responsible for and in direct charge of all physical and virtual core and theory classrooms and practical classrooms and clinics at all times;

b. Familiarize students with the different standard supplies and equipment used in establishments; and

c. Not perform barbering and cosmetology arts and sciences services, with or without compensation, on the school premises except for demonstration purposes.

This rule is intended to implement Iowa Code chapter 157.

645—61.16(157) Student instructors. A student instructor shall be a graduate of an approved school of barbering and cosmetology arts and sciences. Each student instructor shall be under the direct supervision of a licensed instructor at all times.

645—61.17(157) Students.

61.17(1) A school of barbering and cosmetology arts and sciences shall, prior to the time a student is obligated for payment, inform the student of all provisions set forth in Iowa Code section 714.25. The school shall retain a copy of the signed statement for two years following the student's graduating or leaving the program.

61.17(2) Students shall:

a. Wear clean and neat uniforms at all times during school hours and during the mentoring program;

b. Be supervised by a licensed instructor at all times except in a mentoring program when the students shall be under the guidance of a mentor;

c. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch;

d. Attend school no more than eight hours a day. Schools may offer additional hours to students who submit a written request for additional hours;

e. Receive no compensation from the school for services performed on clients;

f. Provide services to the public only after completion of a minimum of 10 percent of the course of study;

g. Not be called from theory class to provide services to the public;

h. Not be required to perform janitorial services or be allowed to volunteer for such services. Sanitation of the bathroom area shall be limited to replacing products and disinfecting the vanity and mirror surfaces. Sanitation of the toilet and bathroom floor areas is not to be performed by the student and is excluded from student sanitation duty; and

i. Receive no credit or hours for decorating for marketing or merchandising events or for participating in demonstrations of cosmetology arts and sciences when the sole purpose of the event is to recruit students and the event is outside the curriculum course.

645—61.18(157) Attendance requirements.

61.18(1) A school of barbering and cosmetology arts and sciences shall have a written, published attendance policy.

61.18(2) Schools shall ensure:

- a. Students complete the hours required for each course of study set forth in rule 645—61.14(157).
- b. Student attendance policies are applied uniformly and fairly for all physical and virtual classes.
- c. Appropriate credit is given for all hours earned.
- d. All retake tests and projects to be redone are completed without benefit of additional hours earned. Time scheduled for such work will be scheduled at the school's discretion.
- e. Hours or credit is not added to the cumulative student record as an award or deducted from the cumulative student record as a penalty.
- f. Work that must be done for missed hours must be allowed. The student must be given full credit for hours earned.

61.18(3) Pursuant to the federal Department of Education and accrediting standards agency, the school may adopt an absence policy not to exceed 10 percent of required coursework for doctor's excuses and life events. In no way shall this policy create a penalty for the student nor excuse the student from the remaining 10 percent of required coursework.

This rule is intended to implement Iowa Code chapter 157.

645—61.19(157) Accelerated learning.

61.19(1) A school may adopt an accelerated learning policy which includes the acceptance of life experience, prior knowledge learned and test-out procedures.

61.19(2) If the school has an accelerated learning policy, the policy shall be a written, published policy that clearly outlines the criteria for acceptance and hours or credit granted or for test-out procedures. The hours or credit granted for accelerated learning shall not exceed 20 percent of the student's entire course of study and shall be documented in the participating student's file.

a. After completion of all entrance requirements, a student may elect to sit for one or more academic written tests to evaluate the knowledge about subject matter gained from life experience or prior learning experience.

b. A student in a barbering and cosmetology arts and sciences course of study may be allowed to test out of a subject by sitting for final examinations covering the basic knowledge gained by a student who attends class sessions, or the school may accept and grant hours for prior or concurrent education and life experience.

c. A student who wishes to receive test-out credit or be granted hours for prior or concurrent education or life experience shall have maintained the academic grades and attendance policy standards set by the school.

d. The school may limit the number of times a student is allowed to sit for a test-out examination of a subject.

645—61.20(157) Mentoring program. Each cosmetology school must have a contract between the student, the school and the establishment mentor that includes scheduling, liability insurance and purpose of the mentoring program.

61.20(1) Students shall not begin the mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours and other requirements of the mentoring program established by the school.

61.20(2) Students may participate in a mentoring program for no more than 5 percent of the total contact or credit hours.

61.20(3) Students shall be under supervision of the mentor at all times. Students may perform the following: drape, shampoo, remove color and perm chemicals, remove perm rods, remove rollers, apply temporary rinses, apply reconditioners and rebuilders with the recommendation of the mentor, remove nail polish, file nails, perform hand and arm massage, remove cosmetic preparations, act as receptionist, handle

retail sales, sanitize establishment, consult with client (chairside manners), perform inventory, order supplies, prepare payroll and pay monthly bills, and hand equipment to the mentor.

61.20(4) The establishment mentor's responsibilities include the following: introduce the student to the establishment and the client, record the time of the student's attendance in establishment, prepare evaluation, discuss performance, and allow the student to shadow.

61.20(5) An establishment or school shall not compensate students when the students are participating in the mentoring program.

645—61.21(157) Graduate of a school of barbering and cosmetology arts and sciences.

61.21(1) A student shall be considered a graduate when the student has completed the required course of study and met the minimum attendance standard.

61.21(2) Students shall be given a final examination upon completion of the course of study but before graduation.

61.21(3) After passage of the final examination and completion of the entire course of study including all project sheets, students shall be issued a certificate of completion of hours required for the course of study.

645—61.22(157) Records requirements.

61.22(1) Each school of cosmetology arts and sciences shall maintain a complete set of student records.

Individual student hours shall be kept on file at the school for two years following graduation. **61.22(2)**

Each school shall maintain daily teaching logs for all instructors, which shall be kept on file at the school for two years.

61.22(3) Prior to closure, the controlling school shall establish agreements with another school to maintain student and graduate transcripts and records. Prior to closure, the controlling school shall also notify the board in writing of the location of student records as established by the maintenance agreements and shall submit a copy of the maintenance agreements to the board. Provisions in the agreement must include maintenance of student transcript records for a period of no less than two years.

645—61.23(157) Classrooms used for other educational purposes.

61.23(1) The licensed school of barbering and cosmetology arts and sciences may be used during scheduled theory or applied practical time for any use other than for student instruction so long as these activities do not disrupt classes. Activities that disrupt classes include but are not limited to:

- a. Persons attending other educational classes passing through a classroom or clinic area (en masse) while it is in use.
- b. Activities with noise levels that are disruptive to other classes.
- c. Activities that usurp the space available for barbering and cosmetology arts & sciences instruction.

645—61.24(157) Public notice.

61.24(1) A sign shall be clearly displayed in the entrance of a licensed establishment operating an apprenticeship program that indicates in prominent lettering that apprentices are employed at the establishment and may perform services under the supervision of a licensed apprenticeship supervisor.

61.25(2) If any blow-dry stylist(s) engage in the practice of blow-dry styling at a licensed establishment, a sign shall be clearly displayed in the entrance of such establishment that indicates in prominent lettering that blow-dry stylist(s) perform limited services, as defined in Iowa Code Chapter 157.12C, in the licensed establishment.

These rules are intended to implement Iowa Code chapters 272C and 157.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	+29 words - These amendments constitute a merger of 645 IAC Chapter 61 with 645 IAC Chapter 21, the latter of which is thereby eliminated in its entirety. This yields a net reduction in word count to 645 IAC by 4334 words.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	added 3 shalls -these amendments constitute a merger of 645 IAC Chapter 60 with 645 IAC Chapter 21, the latter of which is thereby eliminated in its entirety. This yields a net reduction of 67 uses of restrictive words between the chapters.

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report
(Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/24/2023	Total Rule Count:	26
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 63	Iowa Code Section Authorizing Rule:	17A, 147, 157 and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa residents, the public, licensees and employers benefit from the rule as it clarifies the infection control processes by which service providers may ensure the protection of public health as directed in statute.

The rule publicly establishes the responsibilities of the establishment and school owners and service providers, the process for keeping clean and used items separated, cleaning and disinfecting implements, storing and dispensing supplies and disposal of porous instruments. It also outlines infection control methods for the use of creams, cosmetics and applicators, and the practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

The rule also articulates the merger of the board of barbering with the board of cosmetology arts and sciences regarding service providers, equipment and record keeping.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.63. Licensees may incur costs related to infection control responsibilities of the licensee. The Board recognizes that there are associated with infection control protocols and standards, but is unable to assess an actual cost.

Minnesota infection control requirements mirror Iowa's including hand washing, use of a biohazard sharps container for needles and other sharp instruments, open sores protocol, and equipment sterilization.

Nebraska's infection control requirements are also similar to Iowa's, but Nebraska has more stringent requirements related to safety data recording for services and all disinfectant products.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Complaints are investigated with letters, phone calls and in-person interviews.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum infection control requirements ensure safety for the licensee and consumer. The cost of inaction would increase the potential for injury to the public that would remain unchecked without a basic understanding of infection control as outlined in rule, as well as complaint investigation.

There were a total of 15 counts of infection control violations resulting in discipline in 2022.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current complaint investigation and school inspection process.

Infection control requirements could be reduced or eliminated for the purpose of lowering the standard of practice by the profession, but the Board would be concerned about accomplishing the intended benefit of protecting public health and safety of Iowans.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. HF 652 merged the Boards of Cosmetology Arts & Sciences and Barbering to create one board, which also increases efficiencies and reduces duplication. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

63.The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

63.1: Replaced “salon” with “establishment” in the definition for “Dispensary”.

63.1: Amended the following definition to incorporate the new name of the merged board: “School”.

63.1: Added the following definitions to incorporate any person regulated under Iowa Code Chapter 157 who are required by statute to follow infection control laws and rules: “Service Provider”

63.2 Amended to incorporate the new name of the merged board and the term “establishment”.

63.3: Amended by adding “The establishment owner holds a current and active establishment license issued by the board that reflects the current name, address and owner information.”, added the new name of the merged board and replaced “salon” with “establishment” and renumbered.

63.4: Amended by removing “permanently assigned” and adding the new name of the merged board.

63.5: Replaced “salon” with “establishment”, amended to add “all service and”, removed “employee areas”.

63.6: Replaced “salon” with “establishment”, replaced “cleaned” with “cleanable”.

63.7 - 63.9: Replaced “salon” with “establishment”.

63.10: Replaced “licensee” “and students” with “service provider” .

63.11: Replaced “licensee and students” with “service provider”, added “vaping”, reduced excessive

language.

63.12: Replaced “licensee or student” with “service provider”

63.13: Replaced “salon” with “establishment”.

63.16: Amended infection control methods to include those that relate to the practice of barbering.

63.17: Added rules for events and services provided outside of a licensed establishment as directed by statute.

63.18: Replaced “salon” with “establishment”, reordered the rule and replaced “shall” with “may”.

63.19: Replaced “shampoo apron” with “cape”.

63.21: Replaced “Pets” with “Animals”, replaced “salon” with “establishment” and added “service animals as defined by the Americans with Disabilities Act”.

63.22: Replaced “salon” with “establishment” and removed the exception for carpeting in work areas installed prior to January 1, 2010.

63.23: Amended to include records for events and services provided outside of a licensed establishment, employment of blow-dry stylists and foot spa service records.

63.24: Replaced “salon” with “establishment”.

63.25: Amended with clarification of “Foot spa service area records....for all circulating and noncirculating tubs, bowls and basins.”

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 63

INFECTION CONTROL FOR ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES

645—63.1(157) Definitions. For purposes of these rules, the following definitions shall apply:

“*Cleaning*” refers to removing visible debris and disposable parts, washing the surface or item with water and soap or detergent, rinsing the surface or item thoroughly and drying the surface or item. Cleaning must occur before disinfection can begin.

“*Disinfectant*” means an EPA-registered bactericidal, virucidal, fungicidal, pseudomonacidal chemical solution, spray or wipe that is effective against HIV-1 and human hepatitis B virus and is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on nonporous items and surfaces.

“*Disinfection*” means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

“*Dispensary*” means a separate physical location or area in a establishment or school to be used for the storing and dispensing of supplies and cleaning and disinfecting of all implements. The dispensary is where products, chemicals and disinfectants are prepared, measured, mixed, portioned, and disposed of.

“FDA” means the federal Food and Drug Administration.

“Germicide” means an agent that destroys germs.

“Nonporous” means an item that lacks minute openings or crevices that keep air, water and bacteria from entering the item.

“Porous” means an item that contains minute openings or crevices that allow air, water and bacteria to enter the item, such as untreated wood, paper and cardboard.

“School” means a school of barbering and cosmetology arts and sciences.

“Service Provider” means any person regulated by Iowa Code Chapter 157, including but not limited to establishment owners, licensees, students, blow-dry stylists and apprentices.

“Sterilization” means the procedure that kills all microorganisms, including their spores.

“Universal precautions” means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

“Wash hands” means the process of thoroughly washing hands and the exposed portions of the arms up to the elbow with soap or detergent and water and drying with a single-use towel or air dryer. Bar soap shall not be set out for common use.

645—63.2(157) Infection control rules and inspection report. Upon request, the licensee shall make Chapter 63, Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences, and the most recent inspection report available to the board, agents of the board, all persons employed or studying in an establishment or school, and the general public.

645—63.3(157) Responsibilities of establishment owners. Each establishment owner shall ensure the following:

1. The establishment owner holds a current and active establishment license issued by the board that reflects the current name, address and owner information.
2. Individuals employed for barbering and cosmetology arts and sciences services or other licensees working in the establishment hold a current and active license issued by either the board of barbering and cosmetology arts and sciences;
3. Licensees employed by the establishment or other licensees working in the establishment do not exceed their scope of practice; and
4. License renewal cards are properly displayed in the front entrance area at eye level. No license which has expired or become invalid for any reason shall be displayed in connection with the practices of the establishment.

645—63.4(157) Responsibilities of licensees. Licensees are responsible for:

1. Their own station areas;
2. Holding a current and active license issued by the board of barbering and cosmetology arts and sciences; and
3. Ensuring that they do not exceed their scope of practice.

645—63.5(157) Joint responsibility. Establishment owners and licensees are jointly responsible for all service and common areas.

645—63.6(157) Building standards. Establishments and schools shall have and maintain:

1. A service area that is equipped with exhaust fans or air filtration equipment that is of sufficient capacity to be capable of removing chemical fumes from the air;
2. A dispensary;
3. A reception area;
4. Hot and cold running water and clean lavatory facilities;
5. Safe drinking water;
6. Hand-washing facilities;
7. Adequate lighting;
8. Work surfaces that are easily cleanable; and
9. A complete first-aid kit in a readily accessible location on the premises. At a minimum, the first-aid kit must include adhesive dressings, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

645—63.7(157) Establishments in residential buildings.

63.7(1) An establishment located in a residential building shall comply with all requirements in rule 645—63.5(157).

63.7(2) A separate entrance shall be maintained for establishment rooms in a residential building. An exception is that an entrance may allow passage through a nonliving area of the residence, i.e., hall, garage or stairway. Any door leading directly from the licensed establishment to any portion of the living area of the residence shall be closed at all times during business hours.

645—63.8(157) Establishments adjacent to other businesses. An establishment operated adjacent to any other business shall be separated by at least a partial partition. When the establishment is operated immediately adjacent to a business where food is handled, the business shall be entirely separated, and any doors between the establishment and the business shall be rendered unusable except in an emergency.

645—63.9(157) Smoking. All establishments licensed by the board shall comply with the smokefree air Act found in Iowa Code chapter 142D.

645—63.10(157) Personal cleanliness. Any service provider engaged in serving the public shall be neat and clean in person and attire.

645—63.11(157) Universal precautions. Any service provider shall practice universal precautions consistently by observing the following:

63.11(1) Thoroughly wash hands after smoking, vaping, eating, or using the restroom, etc. and before providing services to each client. Hand sanitizers or gloves are not an acceptable substitute for hand washing.

63.11(2) Maintain biohazard sharps container for disposing of used needles, razor blades and other sharp instruments in establishments. These containers shall be located as close to the use area as is practical. These containers shall not be filled above designated “fill line” and shall be disposed of in accordance with guidelines

issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

63.11(4) Wear disposable gloves or may refuse to provide the service when encountering clients with open sores. Gloves shall only be used on a single client and shall be disposed of after the client's service. Anytime gloves are used during a service, wash hands both before gloves are worn and after they are removed.

63.11(5) Refrain from all direct client care and from handling client-care equipment if the service provider has open sores that cannot be effectively covered.

63.11(6) Clean and disinfect instruments and implements pursuant to rule 645—63.13(157).

63.11(7) Place instruments and supplies that have been used on a client or soiled in any manner in the proper receptacles clearly labeled "used." All used items shall be kept separate from items that are disinfected and ready for use.

63.11(8) Store disinfectant solution in the dispensary.

645—63.12(157) Blood exposure procedures.

63.12(1) If a service provider injures oneself, the following steps shall be taken before returning to service:

- a. Stop service.
- b. Clean the injured area by washing the area with soap and water. Use antiseptic or ointment as appropriate.
- c. In the case of mucous membrane exposure, wash or rinse the affected area with sufficient water.
- d. Cover the injury with the appropriate dressing.
- e. Clean the client and station as necessary. First, remove all visible debris and then clean the client with an antiseptic that is appropriate for the skin and clean the station with disinfectant.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

63.12(2) If a client injury occurs, the service provider shall take the following steps:

- a. Stop service.
- b. Glove hands.
- c. Clean injured area and use antiseptic or ointment as appropriate.
- d. Cover the injury with the appropriate dressing to prevent further blood exposure.
- e. Clean station by removing all visible debris and using disinfectant that is appropriate for the soiled surface.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

645—63.13(157) Disinfecting and sterilizing instruments and equipment. All nonporous tools and implements must be either disinfected or sterilized according to the requirements of this rule before use upon a client in schools and establishments.

63.13(1) Disinfection.

a. Nonporous tools and implements.

(1) Immersion method. After each use, all immersible nonporous tools and implements shall be

disinfected by cleaning the tools and implements followed by complete immersion in a disinfectant. Disinfectant solutions shall be mixed according to manufacturer label instructions. The manufacturer's listed contact time for effectively eliminating all pathogens shall be adhered to at all times.

(2) Nonimmersion method. After each use, any nonporous item that cannot be immersed in a disinfectant shall be cleaned with soap or detergent and water to remove all organic material and then sprayed or wiped with disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed. Nonimmersible tools and implements include but are not limited to scissors, trimmers, clippers, handles of hair dryers and curling/flat irons.

b. Disinfected implements shall be stored in a disinfected, dry, covered container and shall be isolated from contaminants. Such container shall be disinfected at least once each week and whenever visibly dirty.

c. Disinfectant solutions shall be changed as instructed on the solution's manufacturer label or whenever visibly dirty.

d. Electric file bits.

(1) After each use, all visible debris shall be removed from diamond, carbide, natural and metal bits by cleaning with either an ultrasonic cleaner or immersion of each bit in acetone for 5 to 10 minutes.

(2) After they are cleaned, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed.

63.13(2) Sterilization. UV light boxes are prohibited and are not an acceptable method of sterilization.

a. Tools and implements may be sterilized by one of the following methods:

(1) Steam sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If steam sterilization, moist heat, is utilized, heat exposure shall be at a minimum of 121°C/250°F, for at least 30 minutes;

(2) Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C/340°F, for at least 60 minutes;

(3) Autoclave sterilization equipment, calibrated to ensure that it reaches the temperature required by the manufacturer's instructions. If autoclave sterilization equipment is utilized, spore testing by a contracted independent laboratory shall be performed at least every 30 days. If a positive spore test is received, the autoclave may not be used until a negative spore test is received. The establishment must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed on the device. Maintenance shall be performed according to the manufacturer's instructions. The establishment must have available for inspection the autoclave maintenance log for the most recent 12 months; or

(4) Chemical sterilization with a hospital grade liquid which, if used, shall be used according to the directions on the label. When chemical sterilization is used, items shall be fully submerged for at least 10 minutes.

b. Sterilization equipment shall be maintained in working order. The equipment shall be checked at least monthly and calibrated to ensure that it reaches the temperature required by the manufacturer's instructions.

This rule is intended to implement Iowa Code section 157.6.

645—63.14(157) Porous instruments and supplies that cannot be disinfected. Porous instruments and supplies that come into direct contact with a client cannot be disinfected. These instruments and supplies include but are not limited to cotton pads, sponges, wooden applicators, emery boards, pumice stones, nail

buffers, buffing bits, arbor or sanding bands, sleeves, toe separators and neck strips. These are single-use items and shall be disposed of in a waste receptacle immediately after use.

645—63.16(157) Infection control methods for creams, cosmetics and applicators.

63.16(1) Liquids, creams, waxes, powders and cosmetics used for clients must be kept in closed, labeled containers.

63.16(2) All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

a. Applicators made of a washable, nonabsorbent material shall be cleaned and disinfected before being used on a client and shall only be dipped into the container one time before being cleaned and disinfected again.

b. Applicators made of wood shall be discarded after a single dip, which would be one use.

c. Roll-on wax products are prohibited.

d. The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

e. Neck dusters, brushes, and common shaving mugs and soap shall not be used in any establishment or school.

645—63.17 63.17 (157). Events and Services Provided Outside of a Licensed Establishment.

(1) Licensed barber and cosmetologists, nail technicians, and estheticians may provide limited services at certain locations (i.e. weddings, etc...) outside of a licensed establishment. Limited services:

(a) include make-up application, strip lashes, polish removal and application, and hairstyling

(b) does not include the use of chemicals, lasers, or other machines.

(c) may include haircutting, subject to the limitations on location provided in 63.17(2)

(2) Licensees may provide limited services outside of a licensed establishment as follows:

(a) Limited services may not be provided unless scheduled through a licensed establishment.

(b) Limited services must be within the scope of practice of the licensed barber and cosmetologist, nail technician, or esthetician.

(c) Limited services, including haircutting, may be provided at:

(i) the temporary or permanent residence of a client

(ii) the hospital, healthcare facility, nursing or convalescent home of a client

(d) Limited services, excluding haircutting, may be provided at:

(i) Special events such as, but not limited to, weddings, photo shoots, etc.

645—63.18(157) Prohibited hazardous substances and use of products and equipment.

63.18(1) No establishment or school shall have on the premises cosmetic products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. Presence of a prohibited product in an establishment or school is prima facie evidence of that

product's use in the establishment or school.

63.18(2) Pedicure instruments designed to remove skin from the bottoms and sides of feet, including but not limited to razor-edged, grating or rasp microplaners, are prohibited. The presence of such equipment is prima facie evidence of the equipment's use.

63.18(3) Procedures involving any animal (e.g., fish, leeches, snails) are prohibited in establishments and schools.

63.18(4) No establishment or school may have chamois buffers. If chamois buffers are observed in the workplace, their presence is prima facie evidence of their use.

63.18(5) No establishment or school may use plastic sleeves or envelopes to store cleaned and disinfected implements unless the implements stored in the plastic sleeves or envelopes have actually been sterilized pursuant to paragraph 63.13(2)"a."

645—63.19(157) Proper protection of neck. A cape, haircloth, or similar article may not be placed directly against the neck of a client but shall be kept from direct contact with the client by means of a paper neckband or clean towel. A neckband of paper shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering.

645—63.20(157) Proper laundering and storage. All cloth towels, robes and similar items shall be laundered in a washing machine with laundry detergent used according to the manufacturer's directions. All linens shall be dried until hot to the touch. No moisture shall be left in laundered items. A clean storage area shall be provided for clean towels and linen, and a covered hamper or receptacle marked "used" shall be provided for all soiled towels, robes and linens.

645—63.21(157) Animals. Dogs, cats, birds, or other animals, are not permitted in establishments or schools. This rule does not apply to service animals as defined by the Americans with Disabilities Act or to fish in an aquarium provided the aquarium is maintained in a sanitary condition.

645—63.22(157) General maintenance. All areas of the establishment and school shall be clean and in good repair.

63.22(1) Walls, floors, and fixtures must be kept clean and in good repair at all times.

63.22(2) Carpeting shall only be allowed in the reception and hooded dryer areas.

645—63.23(157) Records. Client records, appointment records, and employment records shall be maintained for a period of no less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

63.23 (1) Records for Events and Services Provided Outside of a Licensed Establishment must include:

- a. Client name and contact information.
- b. Date, time and location of the event or service.
- c. Name and license number of the licensee performing the service.
- d. A signed and dated waiver that the client understands this limited service shall not include the use of chemicals, must be provided by a licensed practitioner and that all infection control procedures shall be followed.

63.23 (2) Records for Employment of Blow-Dry Stylists must include:

- a. Name and contact information of the employee.
- b. Record of completion of Iowa law, rules and infection control prior to employment as outlined in Iowa Code 157.12C.
- c. Hire date and termination date.
- d. A signed and dated waiver that the employee understands blow-dry stylist services may only be performed in a licensed establishment upon completion of Iowa law, rules and infection control which must be completed every 2 years as a condition of employment.

63.23(3) Foot spa service area records as outlined in 63.25(3).

645—63.24(157) Establishments and schools providing electrology or esthetics. An establishment or school in which electrology or esthetics is practiced shall follow the infection control rules and requirements pertaining to all establishments and schools and shall also meet the following requirements:

1. The electrology or esthetics room shall have adequate space, lighting and ventilation.
2. The floors in the immediate area where the electrology or esthetics is performed shall have an impervious, smooth, washable surface.
3. All service table surfaces shall be constructed of impervious, easily disinfected material.
4. Needles, probes and lancets shall be single-client use and disposable.
5. Licensees providing electrology services shall wear gloves.
6. Adequate access to a sink or running water.

645—63.25(157) Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas.

63.25(1) After use for each client:

- a. Drain the water and remove any visible debris;
- b. Clean the surfaces according to the manufacturer's instructions, use a brush to remove all film, and rinse the tub, bowl, or spa basin;
- c. Fill the tub, bowl, or spa basin with water and add disinfectant;
- d. Allow the disinfectant to stand for noncirculating tubs, bowls, or basins or to circulate for circulating tubs, bowls, or basins for the time specified according to the manufacturer's instructions; and
- e. After disinfection, drain and rinse with clean water.

63.25(2) At the end of the day, remove all removable parts from circulating tubs, such as filters, screens, drains, and jets, and clean and disinfect the removable parts as follows:

- a. Scrub with a brush and soap or detergent until free from debris, and then rinse.
- b. Completely immerse in disinfectant.
- c. Rinse and air dry.
- d. Replace the disinfected parts into the tubs, bowl, or basin or store the parts in a disinfected, dry, covered container that is isolated from contaminants.

63.25(3) Foot spa service area records. For each foot spa service, including but not limited to pedicures, a record shall be made of the date and time of the daily cleaning and disinfecting for all circulating and noncirculating tubs, bowls, or basins. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a client, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event. Foot spa records shall be maintained for two years from the date of the cleaning.

645—63.26(157) Paraffin wax. Paraffin wax shall be used according to the manufacturer’s instructions and shall be used in such a manner so as not to contaminate the remaining wax in the paraffin bath. The following procedures apply:

1. The client shall be free of broken skin or any skin disorder;
2. Hands or feet of a client shall be cleaned before being dipped into paraffin wax. The client’s hands and feet shall not be dipped into the original wax container. The wax shall be removed from the original container and placed in a single-use bag before dipping. Any unused wax remaining in the single-use bag shall be discarded after dipping;
3. Paraffin wax that has been removed from a client’s hands or feet shall be discarded after each use; and
4. Paraffin wax shall be kept free of any debris and kept covered when not in use.

These rules are intended to implement Iowa Code section 147.7 and chapter 157.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3 and all of 645 IAC 22.
Proposed word count reduction after repeal and/or re-promulgation	248. In addition, these amendments constitute a merger of 645 IAC Chapter 63 with 645 IAC Chapter 22, the latter of which is thereby eliminated in its entirety. This yields a net reduction in word count to 645 IAC by 3652 words.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9 - In addition, these amendments constitute a merger of 645 IAC Chapter 63 with 645 IAC Chapter 22, the latter of which is thereby eliminated in its entirety. This yields a net reduction of 89 (80 + 9) uses of restrictive words between the chapters.

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Division of Licensing	Date:	8/24/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 64	Iowa Code Section Authorizing Rule:	17A, 147, 157 and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa residents, service providers, schools, continuing education providers and employers benefit from the rule as it establishes continuing education criteria for renewal and reactivation of licensure as a barber and cosmetologist, nail technician, esthetician, electrologist, or instructor, as directed in statute.

The rule publicly illustrates the topics and programs that will keep all service providers current with infection control, laws, rules and industry standards.

The rule also articulates the merger of the board of barbering with the board of cosmetology arts and sciences, providing guidance for legacy license holders.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is achieved, because it requires barber and cosmetology arts and sciences licensees to meet specific continuing education requirements to ensure up-to-date knowledge on infection control and practical service related skills.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.63. Licensees may incur costs related to renewal and reactivation licensing fees and continuing education courses which are responsibilities of the licensee.

Iowa requires 6 hours of continuing education every two years : 2 hours of Iowa laws and rules and infection control and 4 hours in the prescribed practice. Online continuing education provider courses offering the complete 6 hour continuing education requirement can be found as low as in price from \$30. In-person courses tend to be more expensive. There are multiple entities which offer continuing education courses to licensees, both online and in-person.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this

board at approximately 0.74 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc.

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review of infection control laws and rules and industry standards as outlined in rule as well as through compliance and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce or eliminate continuing education requirements. The board does not recommend a change in continuing education hours at this time. Iowa's 6 hour continuing education requirements is consistent with or less than a number of neighboring states including Nebraska, Illinois, and Minnesota.

A review of surrounding states indicates the following:

Illinois: Cosmetologists - 14 hours; 24 hours for instructors every two years.

Estheticians & Nail Technologists- 10 hours; 20 hours for instructors every two years.

All professions must complete a minimum of 1 hour domestic violence and sexual assault awareness education.

Kansas: 20 hours for cosmetology instructors every two years

Missouri: Instructors: 8 hours every two years.

Minnesota: 8 hours - 1 hour of laws and rules, 3 hours of health, safety, and infection control standards and 4-hour Professional Practice: 45 hours for instructors[30 hours of teaching-methodology courses and 15 hours of clinical practice courses (within the field of licensure)]

Nebraska: 8 hours every two years; Instructors: 4 hours every two years.

South Dakota: 12 hours for instructors and any licensee who wishes to provide microdermabrasion or electric nail filing services.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

64.1: Amended the following definition to incorporate the new name of the merged board: “Board”.

64.1: Added the following definitions to incorporate any person regulated under Iowa Code Chapter 157 who are required by statute to follow infection control laws and rules: “Practice Discipline”

64.2 Amended to incorporate the new name of the merged board and the term “blow-dry stylist”.

63.3: Amended by adding the new name of the merged board, eliminating redundancies, replaced “salon” with “establishment”, added “barbering and cosmetology arts and sciences textbook publishers”, clarified courses that are allowed “within a licensee’s prescribed practice” and reordered paragraphs.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 64
CONTINUING EDUCATION FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES

645—64.1(157) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of barbering and cosmetology arts and sciences.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60

to 65, Iowa Administrative Code.

“Practice discipline” means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

“Prescribed practice” means an area of specialty certified by the board within the scope of barbering and cosmetology arts and sciences.

645—64.2(157) Continuing education requirements.

64.2(1) The biennial continuing education compliance period shall begin on April 1 of one year and end on March 31 two years later.

64.2(2) Each biennium:

a. A licensee in this state shall be required to complete a minimum of 6 hours of continuing education that meets the requirements of rule 645—64.3(157,272C). A minimum of 4 hours of the 6 hours shall be in the prescribed practice discipline and a minimum of 2 hours of the 6 hours shall be in the content areas of Iowa barbering and cosmetology law and rules and sanitation. Individuals holding more than one active license shall obtain 4 hours of continuing education in each prescribed practice discipline and an additional 2 hours in the content areas of Iowa barbering and cosmetology law and rules and infection control.

b. A licensee who is an instructor of barbering and cosmetology arts and sciences shall obtain 6 hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the instructor’s practice license. A licensee must comply with all conditions of licensure including obtaining a minimum of 2 hours each biennium specific to Iowa barbering and cosmetology law and administrative rules as specified in subrule 64.3(2).

c. A licensee currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. The licensee living and practicing in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa’s continuing education requirement but shall pay all renewal fees when due.

d. A licensee shall be deemed to have complied with the continuing education requirements of this state during periods that the licensee:

- (1) Serves honorably on active duty in the military services, or
- (2) Is the spouse of an active duty military service person, or
- (3) Is a government employee working in the person’s licensed specialty and assigned to duty outside of the United States, or
- (4) Is engaged in active practice and absence from the state approved by the board.

64.2(3) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

64.2(4) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

64.2(5) No hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

64.2(6) It is the responsibility of each licensee to finance the cost of continuing education.

64.2(7) Requirements for blow-dry stylists are outlined in Iowa Code Chapter 157.12C.

645—64.3(157,272C) Standards.

64.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

- (1) Date, location, course title, presenter(s), sponsor(s);
- (2) Number of program contact hours; and
- (3) Evidence of successful completion of the course provided by the course sponsor.

64.3(2) Specific criteria. The licensee may obtain the minimum continuing education hours of credit outlined in 64.2(2)“a” by:

- a. Attending workshops, trade shows, conferences or symposiums.
- b. Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
- c. Attending programs on product knowledge, methods and systems. Continuing education shall be directly related to the technique and theory specific to the practice of barbering and cosmetology arts and sciences. No direct selling of products is allowed as part of a continuing education offering.
- d. Attending business classes specific to owning or managing an establishment are acceptable.

In addition to fulfilling the requirements in rule 645—64.2(157), for each prescribed practice license held by a licensee complete 4 hours in each area.

64.3(3) Specific criteria for providers and sponsors of continuing education.

a. Continuing education shall be obtained by attending programs that meet the criteria in subrule 64.3(1). Individuals or groups may offer continuing education programs for any prescribed practice within the barbering and cosmetology arts and sciences that meet the criteria in rule 645—64.3(157,272C) offered by or with express sponsorship in advance of delivery by the following organization(s).

- (1) Barbering and cosmetology arts and sciences
 - (a) National, state or local associations;
 - (b) Schools and institutes;
 - (c) Textbook publishers.
- (2) Universities, colleges or community colleges;
- (3) If within the licensee’s prescribed practice, institutes of laser technology or manufacturers of laser or microdermabrasion products.

b. A licensee who is a presenter of a continuing education program that meets the criteria in rule 645—64.3(157,272C) may receive credit once per biennium for the initial presentation of the program. The presenter may receive the same number of hours granted the attendees.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0 and all of 645 IAC 24.
Proposed word count reduction after repeal and/or re-promulgation	626. In addition, these amendments constitute a merger of 645 IAC Chapter 64 with 645 IAC Chapter 24, the latter of which is thereby eliminated in its entirety. This yields a net reduction in word count to 645 IAC by 1742 words.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3 - In addition, these amendments constitute a merger of 645 IAC Chapter 64 with 645 IAC Chapter 24, the latter of which is thereby eliminated in its entirety. This yields a net

	reduction of 10 (3 + 7) uses of restrictive words between the chapters.
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ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Division of Licensing	Date:	8/25/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 65	Iowa Code Section Authorizing Rule:	17A, 147, 157 and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the barbering and cosmetology arts and sciences professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The benefit is being achieved as the board has initiated licensee discipline based on found violations. In 2022, the Board of Barbering and Board of Cosmetology Arts & Sciences received a combined total of 74 complaints, with 6 of them resulting in public discipline.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are associated with costs to the licensed professional/establishment.

Licensees may be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fine amounts are not established in rule for these licensees and are determined by the Board.

The Board has statutory authority to impose a civil penalty on individuals practicing without a license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee takes action that is grounds for discipline. The

time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of this work at 0.74 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The amount of complaints received are relatively low, and costs reflect that. The Board believes the costs are justified because inaction could increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current discipline process. There could be a consideration of reducing or eliminating grounds for discipline, but the Board believes these requirements are important in order to protect the public from infection risks. With the merger into a singular board of the Barber and Cosmetology Arts & Sciences, the proposed rules will ensure standardization amongst all professions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

65.1: Amended the following definition to incorporate the new name of the merged board: "Board".

65.1: Amended to incorporate the new name of the merged board, added the term "blow-dry stylist", replaced "salon" with "establishment": "Discipline".

65.2: Amended by adding reference to common chapter 645 IAC 13(272C) and referral to Iowa Code Chapter 147.55, and eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

65.3-65.5: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

RULES PROPOSED FOR REPEAL (list rule number[s]):

65.3-65.5

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 65

DISCIPLINE FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES LICENSEES,
INSTRUCTORS, ESTABLISHMENTS , AND SCHOOLS

645—65.1(157,272C) Definitions.

“*Board*” means the board of barbering and cosmetology arts and sciences.

“*Discipline*” means any sanction the board may impose upon barbering and cosmetology arts and sciences licensees, instructors, blow-dry stylists, establishments , and schools.

“*Licensure*” means the granting of a license to any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

645—65.2(157,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—13(272C) when the board determines that any of the acts or offenses listed in such rule or in Iowa Code Chapter 147.55 have occurred.

65.2(1) Misappropriation of funds.

65.2(2) Failure to return the salon license to the board within 30 days of discontinuance of business under that license.

65.2(3) Permitting an unlicensed employee or person under the licensee’s or the licensed school’s or establishment’s control to perform activities that require a license.

65.2(4) Permitting a licensed person under the licensee’s or the licensed school’s or establishment’s control to practice outside the scope of the person’s license.

65.2(6) A person is determined by the investigator to be providing barbering and cosmetology services and leaving a salon at the time of inspection, which shall be prima facie evidence that an unlicensed person is providing services for which a license is required.

65.2(7) Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157, with or without compensation, in any place other than a licensed establishment, a licensed school of barbering and cosmetology arts and sciences. **EXCEPTION:** A licensee may practice at a location that is not a licensed establishment or school of barbering and cosmetology arts and sciences when

- a. Providing a service authorized under 157.4 Temporary Permits.
- b. Providing a service under 645 IAC 63.23 [157.13(1)(a)] Limited Services Provided at Events Outside of a Licensed Establishment.
- c. Extenuating circumstances related to the physical or mental disability or death of a customer prevent the customer from seeking services at the licensed establishment or school.

65.3(1) Unlawful practices. Practices by an unlicensed person or establishment which are subject to civil penalties include, but are not limited to:

Acts or practices by unlicensed persons which require licensure to practice barbering and cosmetology arts and sciences under Iowa Code chapter 157.

Acts or practices by unlicensed establishments which require licensure as an establishment or school of barbering and cosmetology arts and sciences under Iowa Code chapter 157.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	3 and all of 645 IAC 25.
Proposed word count reduction after repeal and/or re-promulgation	2919. In addition, these amendments constitute a merger of 645 IAC Chapter 65 with 645 IAC Chapter 25, the latter of which is thereby eliminated in its entirety. This yields a net reduction in word count to 645 IAC by 4590 [1671 + 2919] words.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9 - In addition, these amendments constitute a merger of 645 IAC Chapter 65 with 645 IAC Chapter 25, the latter of which is thereby eliminated in its entirety. This yields a net reduction of 11 (9 + 2) uses of restricted words between the chapters.

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 81	Iowa Code Section Authorizing Rule:	152A, 272C, 147, 17A
Contact Name:	Venus Vendoures-Walsh	Email:	Venus.vendoures-walsh@idph.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the dietetics profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a dietitian in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa licensed dietitian are:
 Education: Undergraduate and graduate degree
 Exam fee: \$200
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

In comparison, Nebraska requirements are below for Medical Nutrition Therapists:
 Education: Undergraduate and graduate degree
 Exam fee: \$200
 Application fee: \$114

Minnesota Dietetics requirements are below:
 Education: Undergraduate and graduate degree
 Exam fee: \$200
 Application fee: \$283.25 (Includes \$100 application, \$150 initial licensure, \$33.25 criminal background check)

Iowa’s initial licensure application process is similar to those implemented by other state boards of dietetics.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .10 of an FTE to review application materials. Licensing fees go to the Fund to cover the

operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated with competent and qualified practitioners. According to the Commission of Dietetic Registration's website at <https://www.cdrnet.org/LicensureMap>, Iowa is one of 44 states that regulate the profession.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of dietitians. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans in that scenario. In addition, the rule provides consistency related to the licensure of dietitians in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

81.1: Removed redundant and obsolete language from the definitions

81.2: Replaced restrictive term with less restrictive alternative, combined to remove redundant language

81.4 Removed redundant language, replaced restrictive terms with less restrictive alternatives

81.5 Removed obsolete language

81.7 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

81.9 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

81.15 Removed redundant language

81.17 Replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

DIETITIANS

CHAPTER 81

LICENSURE OF DIETITIANS

[Prior to 6/26/02, see 645—Ch 80]

645—81.1(152A) Definitions.

“Active license” means a license that is current and has not expired.

“Board” means the board of dietetics.

“Consultation” means the practice of providing professional advice to another dietitian or other professional in a particular case and for a limited time, in affiliation with, and at the request of, a dietitian licensed in this state.

“Dietetics” means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual’s health.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. *“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a dietitian in the state of Iowa.

“License expiration date” means the fifteenth day of the birth month every two years following initial licensure.

“Nutrition assessment” means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

“Nutrition counseling” means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—81.15(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of dietetics to license persons who have the same or similar qualifications as those required in Iowa.

“Registered dietitian” means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Health Certifying Agencies.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervision of nonlicensees” means any of the following: delegation of duties, direct oversight, or indirect oversight of employees or other persons not licensed by the board.

645—81.2(152A) Nutrition care. The primary function of dietetic practice is the provision of nutrition care services that include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

645—81.3(152A) Requirements for licensure. The following criteria apply to licensure:

81.3(1) Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in 645-subrule 5.6.

81.3(2) No application will be considered by the board until the applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR).

The board will accept the passing score set by the CDR. Verification of satisfactory completion may be established by one of the following:

- a. The applicant sends to the board a copy of the CDR registration card;
- b. The CDR sends an official letter directly to the board to verify that the applicant holds registration status;

or

- c. The CDR posts web-based verification that the applicant holds registration status.

81.3(3) A license is not required for dietitians who are in this state for the purpose of consultation, in accordance with rule 645—81.1(152A), when they are licensed in another state, U.S. territory, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university.

81.3(4) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

645—81.4(152A) Educational qualifications.

81.4(1) The applicant shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of study, which meets minimum academic requirements as established by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) and is approved by the board.

81.4(2) A foreign-trained dietitian shall:

a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of the CDR. Foreign degree equivalency evaluation requirements of the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) are listed on the ACEND website. And

- b. Provide evidence of meeting all other requirements in these rules.

645—81.5(152A) Supervised experience. The applicant shall complete an accredited competency-based supervised experience program approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND).

645—81.6(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Meets the requirements of 645-81.42. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—81.7(152A) License renewal.

81.7(1) The biennial license renewal period begins on the sixteenth day of the licensee's birth month and ends on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration.

81.7(2) An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 81.9(1).

81.7(3) A licensee seeking renewal shall:

- a.* Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b.* Submit the completed renewal application and renewal fee before the license expiration date.

81.7(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children and dependent adults in Iowa will complete the applicable department of health and human services’ training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) “*b.*”

b. Written documentation of training completion should be maintained for three years.

c. The requirement for mandatory training for identifying and reporting child and dependent adult abuse is suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

d. The board may select licensees for audit of compliance with the requirements in paragraphs 81.9(4) “*a*” to “*b.*”

81.7(5) Upon receiving the information required by this rule and the required fee, a two-year license will be administratively issued. . In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

81.7(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

81.7(7) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 645—subrule 5.6(3). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

81.7(8) Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

81.7(9) Renewal of a reactivated license. A licensee who reactivates the license in accordance with rule 645—81.15(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

645—81.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

81.8(1) Submit a reactivation application and pay the reactivation fee as specified in 645-Chapter 5.

81.8(2) Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has

been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license.
- (2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

645—81.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—81.15(17A,147,272C) prior to practicing dietetics in this state.

645—81.10(152A,272C) Telehealth visits. A licensee may provide dietetic services to an individual or a group utilizing a telehealth visit if the dietetic services are provided in accordance with all the requirements of this chapter.

81.10(1) "Telehealth visit" means the provision of dietetic services by a licensee to an individual or a group using technology where the licensee and the individual or group are not at the same physical location for the therapy session.

81.10(2) A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the individual or group. A licensee may use non-real-time technologies to prepare for a session or to communicate with an individual or a group between sessions.

81.10(3) A licensee engaged in a telehealth visit will be held to the same standard of care as a licensee who provides in-person dietetic services. A licensee will not utilize a telehealth visit if the standard of care for the particular services cannot be met by using technology.

81.10(4) Any licensee who provides a telehealth visit to an individual or a group located in Iowa shall be licensed in Iowa.

81.10(5) Prior to the first telehealth visit, a licensee is to obtain informed consent from the individual or group specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the individual or group of the following:

- a. The risks and limitations of the use of technology to provide dietetics services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

81.10(6) A licensee will identify in the clinical record when dietetic services are provided utilizing a telehealth visit.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	626
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	27

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	82	Iowa Code Section Authorizing Rule:	152A
Contact Name:	Venus Vendoures-Walsh	Email:	Venus.VendouresWalsh@idph.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for dietitians. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that dietitians maintain up-to-date practice standards and, as a result, provide high quality services to Iowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that dietitians meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to Iowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be around \$150.00 every two years for a licensee to meet these requirements. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.06 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to

conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Iowa requires 30 hours of continuing education every two years, which is consistent with a review of surrounding states. Illinois and Nebraska also require 30 hours every two years, Minnesota requires 45 every three years, Missouri requires 75 every five years, and South Dakota requires 15 every year.

Less restrictive alternatives would be to reduce or eliminate continuing education requirements for dietitians. Representatives of the board reviewed the required hours and did not support reducing them.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 82.1 – Remove unnecessary definitions
- 82.2 – Removed restrictive language
- 82.3 – Removed restrictive language
- 82.3 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

82.4 – 82.11 – rescinded chapters already

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 82
CONTINUING EDUCATION FOR DIETITIANS
[Prior to 6/26/02, see 645—Ch 81]

645—82.1(152A) Definitions.

“Active license” means the license is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of dietetics.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a dietitian in the state of Iowa.

“*Webinar*” means a Web-based seminar, presentation, lecture, or workshop that is transmitted over the Web.

645—82.2(152A) Continuing education requirements.

82.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on the sixteenth day of the licensee’s birth month and ending on the fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state will be required to complete a minimum of 30 hours of continuing education approved by the board.

82.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

82.2(3) Hours of continuing education credit may be obtained in accordance with the definitions and standards in these rules.

82.2(4) No hours of continuing education will be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

82.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—82.3(152A,272C) Standards.

82.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

82.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth will be accepted

for continuing education.

b. The licensee may engage in other types of activities identified in the individual licensee’s professional development portfolio for Commission on Dietetic Registration (CDR) certification.

c. The licensee may engage in programs/activities via webinars and independent study, in accordance with the definitions and standards in these rules.

d. The licensee may submit completed training to comply with mandatory reporter training requirements, as specified in 645—subrule 81.9(4). Hours reported for credit will not exceed the hours required to maintain compliance with required training.

e. The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management and behavioral and social sciences to achieve and maintain people’s health.

(2) Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

f. Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

quarter hour = 10 continuing education hours

(2) Scholarly publications. Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in refereed professional journals. Material related to work responsibilities, such as diet and staff manuals, and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines:

1. Senior author: first of two or more authors listed.

2. Coauthor: second of two authors listed.

3. Contributing author: all but senior of the three or more authors.

4. Research papers:

- Single author 10 hours
- Senior author 8 hours
- Coauthor 5 hours
- Contributing author 3 hours

5. Technical articles:

- Single author 5 hours
- Senior author 4 hours
- Coauthor 3 hours
- Contributing author 2 hours

6. Information-sharing articles: 1 hour

7. Abstracts:

- Senior author 2 hours
- Coauthor 1 hour

(3) Poster sessions. Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter as required in these rules. One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed six hours in a continuing education biennium.

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public will not receive credit for continuing education. For each 50-minute hour of presentation, two hours of credit for continuing education will be earned. Presenters of poster sessions at national professional meetings will receive a maximum of two hours of credit

per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

(5) Staff development training. Staff development training that meets the criteria in this subrule will be credited on the basis of the defined hour of continuing education stated in these rules.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	210
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Licensing	Date:	8/1/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 83	Iowa Code Section Authorizing Rule:	152A
Contact Name:	Venus Vendoures-Walsh	Email:	Venus.venoures-walsh@idph.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for dietitians. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only the disciplinary ground related to compliance with the profession’s code of ethics, which is unique to the dietetics profession and is therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Dietetics Board has received only one complaint thus far in 2023, and they have not issued public discipline since 2015, when action was taken against three licensees. Dietetics is a very small profession at approximately 1400 licensed individuals. While a very low number of complaints can call into question the extent to which a profession needs to be regulated, dietitians are health care professionals required to be skilled at translating the science of nutrition in the prevention and treatment of health conditions, and the Board believes that regulation is necessary. Iowa is one of 44 states that regulate the professions of dieticians and/or nutritionists.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional conduct is undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to the Code of Ethics established by the Academy of Nutrition/Commission on Dietetics Registration, so there would be a cost to the practitioner in taking the needed time to review those standards. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000.00, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.16 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the extremely low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there has only been one complaint in recent years, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practice of dietetics is a form of health care that requires a high level of education, training, and skill.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that Iowans receive health care from competent practitioners.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

83.2(2) thru (32) – Removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 83.1 – removed duplicative/unnecessary definitions, replaced restrictive terms with less restrictive terms
- 83.3 - Removed duplicative language found in 645 Chapter 13
- 83.4 Removed duplicative language found in 645 Chapter 13 and Iowa Code 272C

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

645—83.1(152A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code Chapter 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13:

83.1(1) Failure to comply with the Academy of Nutrition and Dietetics/Commission on Dietetic Registration, Code of

Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, effective January 1, 2010, hereby adopted by reference. Copies may be obtained from the Academy of Nutrition and Dietetics/Commission on Dietetic Registration website at www.eatright.org/codeofethics/.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	115
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	1

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 25, 2023	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 100 Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments	Iowa Code Section Authorizing Rule:	156, 147, 272C, 142.3,
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides the duties of a funeral director for embalming, cremation, maintaining the chain of custody of a decedent, and the records to be retained by a funeral establishment. This rule articulates minimum acceptable standards for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved because the rules provides state and federal guidelines the licensee must follow to protect the chain of custody of the decedent and the public.

There are rules in this chapter where jurisdiction is vested solely under the Department of Health and Human Services and compliance is required by the licensee to meet the standards of these rules.

What are the costs incurred by the public to comply with the rule?

There are costs to the licensees and the establishment associated with the standard of practice and to maintain compliance. For a new establishment that might include fees associated with city zoning and DNR requirements. The Board believes these costs are necessary to ensure the licensee is competent to perform the duties within the scope of practice. At this time, the Board is unable to calculate the costs incurred to the public or the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs incurred by the agency are staff time to manage the full scope of board activities that includes oversight of practice standards, triaging questions from licensees and the public, and administering board meetings. An executive officer supports the work of the board at approximately 0.29 FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits achieved. A funeral and related services are the third-largest expenditure a consumer will make in their lifetime at a vulnerable time. These regulations help to ensure funeral directors conform to these minimum standards for consumer protection. If this profession were not regulated, it is likely that untrained or under-trained individuals would attempt to provide services to Iowa families, increasing the likelihood of potential fraudulent or dangerous practices.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

A least restrictive alternative would be licensure by certification. But even in a state such as Colorado that requires only certification, the certification can only be attained after demonstrating competence in a certification program sponsored by the Colorado Funeral Directors Association and passing an exam.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10.

100.1 – Removes restrictive language; includes provisions of SF 193; and amends agency to read Department of Health and Human Services.

100.2 – Removes restrictive and redundant language; includes provisions of SF 193.

100.3 – Removes restrictive language.

100.4 – Removes restrictive and redundant language; includes provisions of SF 193.

100.5 – Removes restrictive and redundant language.

100.6 – Removes restrictive language.

100.7 – Removes restrictive language.

100.8 – Removes restrictive language; amends agency to read Department of Health and Human Services.

100.9 – Removes restrictive language; amends agency to read Department of Health and Human Services.

100.10 – Removes restrictive language.

100.11 - Removes restrictive language; amends agency to read Department of Health and Human Services.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 100
PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

645—100.1(156) Definitions.

“*Alternative container*” means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials which prevents the leakage of body fluid.

“*Authorized person*” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to Iowa Code section 144C.5.

“*Autopsy*” means the postmortem examination of a human remains.

“*Board*” means the board of mortuary science.

“*Body parts*” means appendages or other portions of the anatomy that are from a human body.

“*Burial.*” See “*Interment.*”

“*Burial transit permit*” means a legal document authorizing the removal and transportation of a human remains.

“*Casket*” means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

“*Cemetery*” means an area designated for the final disposition of human remains.

“*Columbarium*” means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

“*Cremated remains*” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eye glasses that were cremated with the human remains.

“*Cremation*” means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation will include the processing, and may include the pulverization, of the bone fragments.

“*Cremation authorization form*” means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

“*Cremation chamber*” means the enclosed space within which a cremation takes place.

“*Cremation establishment*” means any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.

“*Cremation permit*” means a permit issued by a medical examiner allowing cremation for human remains.

“*Cremation room*” means the room in which the cremation chamber is located.

“*Crypt*” means a chamber in a mausoleum of sufficient size to contain casketed human remains.

“*Custody*” means immediate charge and control exercised by a person or an authority.

“*Dead body.*” See “*Human remains.*”

“*Death certificate*” means a legal document containing vital statistics pertaining to the life and death of the decedent.

“*Decedent.*” See “*Human remains.*”

“*Disinterment*” means to remove a human remains from its place of final disposition.

“*Disinterment permit*” means a permit from the department of health and human services which allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“*Disinterment permit number*” means the number assigned to a disinterment permit by the department of health and human services, giving the funeral director the authority to remove a human remains from its place of final disposition.

“*Embalming*” means the disinfection or temporary preservation of human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

“*Embalming record*” means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. “Embalming record” includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

“*Entombment*” means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

“*Final disposition*” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“*Funeral ceremony*” means a service commemorating the decedent.

“*Funeral director*” means a person licensed by the board to practice mortuary science.

“*Funeral establishment*” means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

“*Funeral rule*” means the Federal Trade Commission Funeral Rule.

“*Funeral services*” means any services which may be used to (1) care for and prepare human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of human remains.

“*Holding facility*” means an area isolated from the general public that is designated for the temporary retention of human remains.

“*Human remains*” means a deceased human being for which a death certificate or fetal death certificate is required.

“*Interment*” means to place a casketed human remains or an urn containing cremated remains in the ground.

“*Intern*” means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

“*Mausoleum*” means an aboveground structure designed for entombment of human remains.

“*Medical examiner*” means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

“*Memorial ceremony*” means a service commemorating the decedent.

“*Niche*” means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

“*Preparation room*” means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

“*Pulverization*” means a process following cremation which reduces identifiable bone fragments into granulated particles.

“*Removal*” means the act of taking a human remains from the place of death or place where a human remains is being held to a funeral establishment or other designated place.

“*Removal technician*” means a person registered with the board to perform removals.

“*Scattering area*” means a designated area where cremated remains may be commingled with other cremated remains.

“*Temporary cremation container*” means a durable receptacle designed for short-term retention of cremated remains.

“*Their own dead*” refers to the legal authority the authorized person has regarding a human remains.

“*Topical disinfection*” means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

“*Transfer.*” See “*Removal.*”

“*Universal precautions*” means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control and Prevention (CDC).

“*Urn*” means a receptacle designed for permanent retention of cremated remains.

645—100.2(156) Funeral director duties.

100.2(1) Practices requiring a funeral director’s license include but are not limited to:

- a. Removal as specified in rule 645—100.4(142,156).
- b. Embalming human remains as specified in rule 645—100.6(156) and completing embalming records as specified in paragraph 100.11(2) “d.”
- c. Conducting funeral arrangements as specified in subrule 100.7(2).
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.
 - (2) Funeral and memorial ceremonies.
 - (3) Committal and final disposition services.
- e. Conducting cremation services as specified in rule 645—100.10(156).
- f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

100.2(2) Delegation of professional tasks.

- a. Registered interns. Registered interns may provide funeral director services identified in subrule 100.2(1), paragraphs “a” through “f,” under the direct supervision of an Iowa-licensed preceptor. A registered intern will not sign a death certificate.
- b. A funeral director may delegate solely the transportation of unembalmed human remains to a registered removal technician pursuant to 645—100.4(3).

100.2(3) CDC universal precautions and OSHA standards. The funeral director will observe current guidelines of universal precautions as prescribed by the Centers for Disease Control (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

100.2(4) Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director’s license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

100.2(5) Withholding human remains. A funeral director will not withhold human remains based solely on nonpayment of

fees.

645—100.3(156) Permanent identification tag.

100.3(1) The funeral director who assumes possession of a human remains will attach a permanent identification tag.

100.3(2) The identification tag will initially contain, at a minimum, the name of the deceased.

100.3(3) Before final disposition, the identification tag will contain the name of the deceased and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral establishment in charge of disposition.

100.3(4) The identification tag will be attached to the human remains throughout the entire time the human remains are in the possession of the funeral establishment and will remain with the human remains.

645—100.4(142,156) Removal and transfer of human remains.

100.4(1) Removal and transfer of human remains. The funeral director will perform the following duties upon notification of a death.

a. Comply with jurisdictional authority, with respect to medicolegal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

100.4(2) After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the human remains to an unlicensed employee, removal technician, or agent. Prior to transfer, the funeral director will typically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

100.4(3) A funeral director may delegate the transportation of unembalmed human remains to an unlicensed employee, removal technician or agent of the funeral establishment without first assuming custody and without typically disinfecting or securing body orifices if all of the following are true:

a. The transportation is to or from the medical examiner's office, or otherwise at the direction of the medical examiner;

b. The remains are placed in a leakproof container by medical examiner personnel; and

c. The employee, removal technician, or agent is issued a burial transit permit or other evidence of authorization.

100.4(4) An unlicensed employee, removal technician, or agent referred to in subrules 100.4(2) and 100.4(3) must complete the annual OSHA training related to blood-borne pathogens, training on in-person equipment and disposition of remains; and ethics and professional boundaries

645—100.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of human remains, according to state law and the administrative rules promulgated by the department of health and human services.

645—100.6(156) Preparation and embalming activities.

100.6(1) The funeral director will perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 100.6(3).

b. Embalm entirely in private. No one except the funeral director, intern, immediate family, or student will be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science which is recognized by the board to be allowed in the preparation room without written permission during the embalming.

c. Keep the human remains properly covered at all times.

d. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

e. Position the human remains on the preparation table and pose the facial features.

f. Select points of drainage and injection, and raise the necessary vessels.

g. Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, will be performed.

h. Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

100.6(2) Postembalming activities. The funeral director will perform the following duties at the conclusion of the embalming activities if necessary.

- a. Pack or otherwise secure all body orifices with material which will absorb and retain all secretions.
- b. Apply chemicals topically and perform hypodermic treatments.
- c. Bathe, disinfect and reposition the human remains.
- d. Clean and disinfect the embalming instruments, equipment and preparation room.
- e. Perform any restorative treatments.
- f. Select and apply the appropriate cosmetic treatments.
- g. Prepare the human remains for viewing.

100.6(3) Care of the unembalmed human remains.

- a. Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if a human remains was previously in the custody of others, whichever is longer.
- b. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3) "a." The body must be kept between 38 and 42 degrees Fahrenheit.
- c. If viewing of the unembalmed human remains is requested, the human remains will be topically disinfected and all body orifices will be packed or otherwise secured with material which will absorb and retain all secretions.

645—100.7(156) Arranging and directing funeral and memorial ceremonies.

100.7(1) *The Federal Trade Commission.* The funeral director will observe current guidelines of the Federal Trade Commission (FTC) funeral rule.

100.7(2) *Arrangement conference activities.* If responsible the funeral director will perform the following duties associated with arranging ceremonies and the final disposition of a human remains.

- a. Gather necessary statistical and biographical information relating to the decedent and explain the varied use of the information gathered.
- b. Present, discuss and explain the mandated FTC price lists and assist or provide the consumer with:
 - (1) The types of ceremony or final disposition.
 - (2) The specific goods and services.
 - (3) The prices of any goods and services.
 - (4) The written, itemized statement of the funeral goods and services.
 - (5) A general price list.

At the conclusion of arrangements the itemized statement will be signed by the purchaser and the funeral director.

100.7(3) *Directing of funeral and memorial ceremonies.* If responsible, the funeral director will perform the following duties:

1. Direct and supervise ceremonies.
2. Direct and supervise final disposition.

645—100.8(142,156) Unclaimed human remains for scientific use.

100.8(1) A human remains is unclaimed when:

- a. The decedent did not express a desire to be interred, entombed or cremated.
- b. Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

100.8(2) Friend distinguished from casual acquaintance. A friend will be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

100.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory will notify the Department of Health and Human Services as soon as any unclaimed human remains which may be suitable for scientific purposes will come into the person's custody.

100.8(4) Department instructions. When the department of Health and Human Services receives notice, the funeral director will be instructed as to the proper disposition of a human remains.

100.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of a human remains to a medical college will be paid by the medical college receiving the human remains.

645—100.9(144) Disinterments. A funeral director in charge of a disinterment will ensure that the disinterment is performed in accordance with rules promulgated by the department of health and human services and will first secure a disinterment permit issued by the department of health and human services.

100.9(1) No person will disinter a human remains or cremated remains unless the funeral director in charge of the disinterment has a numbered disinterment permit which has been issued by the department of health and human services or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

100.9(2) All disinterment permits will be requested and provided by the department of health and human services.

100.9(3) All disinterment permits will be signed by the authorizing person.

100.9(4) Disinterment permits will be furnished upon request from the department of health and human services and will remain valid for 30 days after issuance.

100.9(5) Disinterment permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

100.9(6) Disinterment permits will be required for any relocation of a human remains from the original site of interment or entombment if the purpose is for autopsy or reburial.

100.9(7) No disinterment permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

100.9(8) A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or

b. Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

645—100.10(156) Cremation of human remains.

100.10(1) Record keeping.

a. Delivery receipt.

(1) When a human remains is delivered to a cremation establishment, the cremation establishment will furnish to the delivery person a delivery receipt containing:

1. The name, address, age, gender, and cause of death of the decedent whose human remains are delivered to the cremation establishment.

2. The date and time of delivery and the type of container that contains the human remains.

3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

4. The signature of the person who delivered the human remains.

5. The signature of the person receiving the human remains on behalf of the cremation establishment.

6. The name and business address of the cremation establishment.

(2) The cremation establishment will retain a copy of the delivery receipt in its permanent records.

b. Receiving receipt.

(1) The cremation establishment will furnish to any person who receives the cremated remains from the cremation establishment a receiving receipt containing:

1. The name of the decedent whose cremated remains are released from the cremation establishment.

2. The date and time when the cremated remains were released from the cremation establishment.

3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which that person is affiliated.

4. The signature of the person who receives the cremated remains.

5. The signature of the person who released the cremated remains on behalf of the cremation establishment.

6. The name of the cremation establishment operator and the date and time of the cremation.

(2) The cremation establishment will retain a copy of the receiving receipt in its permanent records.

c. Permanent record. A cremation establishment will maintain at its place of business a permanent record that includes the following:

(1) Name of the deceased person.

(2) Date and time of the cremation.

(3) Copies of the delivery receipt and the receiving receipt.

(4) Disposition of the cremated remains.

(5) Cremation authorization.

(6) Cremation permit if required in the jurisdiction of death.

100.10(2) Employment of a funeral director by a cremation establishment. No aspect of these rules will be construed to require a funeral director to supervise or perform any functions at a cremation establishment not otherwise required by law to

be performed by a funeral director. The cremation establishment will contract only with a licensed funeral establishment and will not contract directly with the general public.

100.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

100.10(4) *Authorization to cremate.*

a. The cremation establishment will have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorized person. The cremation authorization form will contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.
 2. The date, time of death and cause of death of the decedent.
 3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorized person.
 4. The signature of the funeral director.
 5. The name and address of the cremation establishment authorized to cremate a human remains.
 6. The name and signature of the authorized person granting permission to cremate the human remains and the authorized person's relationship to the decedent.
 7. A representation that the authorized person has the right to authorize the cremation of the decedent in accordance with this rule.
 8. A representation that in the event there is another person who has superior priority right to that of the authorized person, the authorized person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.
 9. A representation that a human remains does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.
 10. A representation that the authorized person has made a positive identification of the decedent or, if the authorized person is unavailable or declines, there are alternative means of positive identification.
 11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.
 12. The manner of the final disposition of the cremated remains.
 13. A listing of all items of value and instructions for their disposition.
- (2) The cremation permit if required in the jurisdiction of death.
- (3) Any other documentation required by this state.

b. If the authorized person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, e-mail, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorized person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The cremation establishment will honor any instructions from a funeral director or funeral establishment under this rule if the cremation establishment receives instructions prior to beginning the cremation.

100.10(5) *Cremation procedures.*

a. A cremation establishment will cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 100.10(1).

b. No cremation establishment will cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials which will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No cremation establishment will refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the cremation establishment will place the human remains in a holding facility in accordance with the cremation establishment rules and regulations and within the parameters of rules 645—100.5(135,144) and 645—100.6(156).

e. No cremation establishment will accept human remains unless they are delivered to the cremation establishment in a container which prevents the leakage of body fluids.

f. Under no circumstances will an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which a human remains is delivered to the cremation establishment will be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber,

without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, will prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person will be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A cremation establishment will not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorized person and written instructions for the delivery of these items to the authorized person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process will be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains will be returned to the authorized person or this person's designee in a separate container. The cremation establishment will not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A cremation establishment will not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains will be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A cremation establishment will maintain an identification system that will ensure the identity of human remains in the cremation establishment's possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the cremation establishment and the city and state where the cremation establishment is located will be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

100.10(6) *Disposition of cremated remains.* If responsible, the funeral director will supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche or by scattering them in a scattering area as defined in these rules, or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director will be discharged.

b. Upon the completion of the cremation process, the cremation establishment will release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the cremation establishment will be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, will keep a permanent record identifying the site of final disposition. The authorizing person will be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to the effective date of these rules may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment will:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition will not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

100.10(7) *Scope of rules.* These rules will be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules will take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

645—100.11(156) Records to be retained by a funeral establishment. To ensure a permanent record of the licensed activity relating to the custody of each decedent, each funeral director will create and the funeral establishment will maintain the records identified in this rule. Funeral directors and funeral establishments will comply with the rules adopted by the department of health and human services under Iowa Code section 144.49.

100.11(1) At a minimum, the following information, if applicable, relating to each human remains which enters the custody of the establishment/licensee will be maintained as the permanent record of licensed activity:

- a. Name of the deceased;
 - b. Date, time, and place of death (institution or other place, city, state, zip);
 - c. Name and address of the person or funeral establishment to whom a human remains is released;
 - d. Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing a human remains;
 - e. Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;
 - f. Date, place and method of final disposition of a human remains.
- 100.11(2)** Each funeral establishment will create and maintain the following records for a period of ten years:
- a. General price list required by the funeral rule, beginning on the most recent effective date;
 - b. Each completed statement of goods and services required by the funeral rule, beginning on the date the statement is signed;
 - c. Cremation records (see 645—100.10(156));
 - d. Embalming records;
 - e. Each preneed contract (pursuant to Iowa Code chapter 523A), beginning on the date of death.
- 100.11(3)** The funeral records maintained by the funeral establishment as required in 100.11(1) and 100.11(2) will be made available by the manager, funeral director or owner of the funeral establishment to:
- a. Any person or entity assuming a new ownership interest or any person newly assuming the position of manager, at least ten days prior to a change in ownership or manager, unless otherwise mutually agreed upon by the parties;
 - b. Any licensed funeral director who practiced funeral directing while under the employment of, or while acting as an agent of, the funeral establishment; and
 - c. The state registrar of vital statistics and the board.
- 100.11(4)** In the event a funeral establishment ceases to do business, the owner or manager of the funeral establishment will identify the person or entity which will be responsible for records to be maintained by a funeral establishment as required in 100.11(1) and 100.11(2). The funeral establishment will notify the board if funeral records are moved from the funeral establishment to another location and identify the person responsible for their safekeeping.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	11
Proposed word count reduction after repeal and/or re-promulgation	453
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	83

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	July 20, 2023	Total Rule Count:	13
IAC #:	645	Chapter/ SubChapter/ Rule(s):	101 Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments.	Iowa Code Section Authorizing Rule:	156
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule chapter is intended to provide an applicant and licensee with the process and requirements to apply for and maintain licensure. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual or establishment doing business with the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

Yes. The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement. The rule document illustrates the licensure process which is intended to benefit those who want to practice mortuary science by actively licensing 875 funeral directors, 23 interns, 510 funeral establishments and 73 crematories.

What are the costs incurred by the public to comply with the rule?

There are not costs imposed on the public to comply with the rule, however, there is a cost to the applicant to meet the requirements statute and rule.

An approximate estimation of education and licensure requirements to apply for an Iowa funeral director license:
 Education: Completion of an accredited mortuary science program and 60 hours of college credit from a regional accredited college or university. Internship served after education.
 One semester hour or equivalent in current Iowa law and rules: \$185.00
 Examination fee: \$570
 Licensing fee: \$120

An approximate estimation of education and licensure requirements to apply for a Nebraska funeral director license:
 Education: Must graduate from an accredited funeral service program; plus 60 semester hours/college credit in specific areas. Internship served before or after education.
 Examination fee: \$570
 Licensing fee: \$90.00

An approximate estimation of education and licensure requirements to apply for a Minnesota funeral director license:

Education: Bachelors degree in Science or Arts; internship served after education.

Examination fee: \$570

Licensing fee: \$200

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries, support, and maintenance to ensure licensure requirements and the monitoring of interns are met are covered by the Licensing and Regulation Fund established in SF 557. It takes approximately 0.19 FTE to support the licensure process. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Almost every person at some point, will purchase or consume a funeral-related product or service. Without having an established threshold for entry into the profession individuals who are not appropriately trained could have adverse effects on consumers who are making expensive decisions in stressful circumstances. The Board believes the cost to license this profession justifies the benefits achieved because it ensures Iowa consumers are protected.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost-effective alternative to the licensure of funeral directors and establishments. The Board believes all current requirements assure public safety and ensure a minimum level of competency.

The Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These proposed amendments support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Through Executive Order 10, a review of this rule chapter identified unnecessary and restrictive language.

101.2 Removed unnecessary and restrictive language.

101.3 Removed restrictive language.

101.4 Removed restrictive language.

101.5 Removed unnecessary and restrictive language.

101.6 Removed unnecessary and restrictive language.
101.7 Removed unnecessary and restrictive language.
101.8 Removed unnecessary language.
101.10 Removed unnecessary language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 101
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND
CREMATION ESTABLISHMENTS

645—101.1(156) Definitions. For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of mortuary science.

“*Change of ownership*” means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

“*Full time*” means a minimum of a 35-hour work week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mortuary science to an applicant who is or has been licensed in another state.

“*Outer burial container*” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—101.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mortuary science to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of mortuary science to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—101.2(156) Requirements for licensure.

101.2(1) The applicant will be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 101.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university

with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours will not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board will accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Internship requirements as outlined in rule 645—101.3(147,156).

101.2(2) The applicant will complete an online application packet on the Iowa Board of Mortuary Science website and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application. Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

b. An application that is not completed according to guidelines will not be reviewed by the board.

c. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

d. An application will not be considered until official copies of the academic transcripts has been directly transmitted from the college to the board office that demonstrates the applicant has completed a program at an approved college of mortuary science.

e. Licensees who were issued their initial licenses within six months prior to the renewal will not be required to renew their licenses until the renewal month two years later.

f. Incomplete applications that have been on file in the board office for more than two years will be:

(1) Considered invalid and will be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

101.2(3) Foreign-trained funeral directors will:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc. The professional curriculum must be equivalent to that stated in these rules. A candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—101.3(147,156) Internship and preceptorship.

101.3(1) Internship.

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship will be indicated on the internship certificate. The intern will engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern will, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph 101.3(2)“i.”

c. No licensed funeral director will permit any person in the funeral director’s employ or under the funeral director’s supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health. The registration will be posted in a conspicuous place in the intern’s primary place of practice.

d. Registered interns will not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

e. The intern will, during the internship, complete the requirements outlined in subrule 101.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of public health. Work on the first 5

embalming cases, first 5 funeral arrangements, and first 5 funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

f. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health. These reports will be answered in full and signed by both the intern and preceptor.

g. When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

h. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

i. The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed within 24 months will be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

- (1) Completion of a college course or continuing education course covering mortuary science laws and rules;
- (2) Additional case reports;
- (3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

j. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

k. The intern will complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form will be submitted before a funeral director license is issued to the intern.

l. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

101.3(2) Preceptorship.

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course will cover Iowa law and rule content areas including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph 101.3(2) "a" will be eligible to be a preceptor.

c. The preceptor will be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

d. The preceptor will certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

e. A preceptor's duties will include the following:

- (1) Ensure the intern completes the training program outlined in subrule 101.3(3);
- (2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;
- (3) Familiarize the intern in the areas specified by the preceptor training outline;
- (4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;
- (5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and
- (6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation will be submitted within two weeks of the end of the internship. The 12-month report will be submitted to the board for review and approval prior to the board's approval of the intern for licensure.

f. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, will result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

g. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

h. No licensed funeral director or licensed funeral establishment will have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

i. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

- (1) A single preceptor must act in the role of the primary preceptor.
- (2) The primary preceptor is responsible for coordinating all intern training and activities.
- (3) The intern will be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.
- (4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher-volume practice or a broader range of intern experiences.
- (5) Each preceptor will be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

101.3(3) Intern training requirements.

a. The board-approved preceptor will ensure that the intern is knowledgeable of each of the following items during the internship:

- (1) The requirements of the Federal Trade Commission Funeral Rule.
- (2) The requirements of the Occupational Safety and Health Act.
- (3) The requirements of the Americans with Disabilities Act.
- (4) The benefits of the Social Security and Veterans Health Administrations.
- (5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of public health's law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor will ensure that the intern performs each of the following under the preceptor's direct supervision:

- (1) Assists with or performs a minimum of 10 transfers of human remains.
- (2) Performs 25 embalmings of human remains to include:
 1. Obtaining permission to embalm.
 2. Placement of human remains on preparation table.
 3. Pre-embalming analysis.
 4. Primary disinfection.
 5. Setting features.
 6. Selection of injection/drainage sites and raising those vessels.
 7. Selection and mixing of embalming chemicals and operation of the embalming machine.
 8. Injection and drainage methods.
 9. Cavity treatment.
 10. Suturing techniques.
- (3) Prepares a minimum of 10 human remains for viewing to include:
 1. Dressing.
 2. Cosmetizing.
 3. Casketing.
- (4) Assists with cremation procedures to include:
 1. Contacting the medical examiner.
 2. Completing required cremation forms.
 3. Preparing human remains for cremation.
- (5) Makes complete funeral arrangements with a minimum of 10 families to include each of the following, as applicable:
 1. Presentation of funeral goods, products and services.
 2. Presentation of payment options for families.
 3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, cremation establishment, florist, and musicians.
 4. Completing the obituary.
 5. Presentation of general price list and associated price lists.
 6. Preparation and presentation of statement of funeral goods and services.
- (6) Coordinates, at a minimum, 10 visitations to include:

1. Preparing the chapel, visitation room or other facility.
2. Setting up floral arrangements.
3. Setting up register book and memorial folders or prayer cards.
- (7) Directs a minimum of 25 funerals or memorial services to include, as applicable:
 1. Greeting funeral attendees.
 2. Assisting casket bearers.
 3. Preparing for funeral procession.
 4. Driving a vehicle in procession.
 5. Assisting at graveside committal.
 6. Transporting flowers.
 7. Coordinating with officiant and family.

645—101.4(156) Student practicum.

101.4(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

101.4(2) Students serving a practicum in Iowa will be under the direct physical supervision of a funeral director who meets the following requirements:

- a. Has completed the Iowa preceptor training course within the immediately preceding five years.
- b. Has not had any formal disciplinary action within the past five years.
- c. Is affiliated with a funeral establishment that has not had formal disciplinary action within the past five years.

645—101.5(156) Funeral establishment license or cremation establishment license.

101.5(1) A place of business devoted to providing any aspect of mortuary science or cremation services will hold an establishment license issued by the board. An establishment license will not be issued more than 30 days prior to the opening of a new establishment.

- a. A funeral establishment or a cremation establishment will not be operated until it has obtained a license from the board. Each establishment will timely renew the license in order to continue operations.
- b. A funeral or cremation establishment will surrender its license to the board if the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2) "d."
- c. A funeral or cremation establishment license is not transferable or assignable.
- d. A change in ownership will require the issuance of a new license. A change in ownership will be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer.
- e. An establishment license will be issued for a specific physical location. A change in location or site of an establishment will require the submission of an application for a new license and payment of the fee required by 645—subrule 5.9(9). A new establishment license must be issued prior to the commencement of business in a new location.
- f. A change in the name of an establishment will be reported to the board within 30 days. The establishment owner will pay the fee for reissuing the license.
- g. A change in address or of the funeral director in responsible charge will be reported to the board within 30 days.
- h. An establishment will have an employment or other relationship with one or more licensed funeral directors who will perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment will not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment will report to the board any change of the funeral director in responsible charge within 30 days of the change.
- i. The board will not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees will ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.
- j. The establishment license will be displayed in a conspicuous place at the location of the establishment.
- k. Failure to comply with any of these rules will constitute grounds for discipline pursuant to 645—Chapter 103 or civil penalties for unlicensed practice pursuant to 645—Chapter 104.

101.5(2) A funeral establishment or cremation establishment will be subject to applicable local, state and federal health and environmental requirements and will obtain all necessary licenses and permits from the agencies with jurisdiction.

101.5(3) License application. Complete an online application on the Iowa Board of Mortuary Science website and pay the nonrefundable funeral or cremation application fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment application fees. The application will contain all of the following:

- a. The name, mailing address and telephone number of the applicant.
- b. The physical location of the establishment.
- c. The mailing address, telephone number, fax number and email address of the establishment.
- d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.
- e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).
- f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.
- g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.
- h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who ~~will have~~ will be in responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment will be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.
- i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).
- j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I, or action by the Federal Trade Commission.
- k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

[ARC 3083C, IAB 5/24/17, effective 6/28/17]

645—101.6(156) Renewal of funeral director license.

101.6(1) The biennial license renewal period for a license to practice as a funeral director will begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

101.6(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal, with 2 of the 24 hours covering current Iowa law and rules as identified in 645—paragraph 102.3(2) "f."

101.6(3) A licensee seeking renewal will:

- a. Meet the continuing education requirements of rule 645—102.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Complete an online renewal application on the Board of Mortuary Science website and pay the renewal fee before the license expiration date.
- c. Persons licensed to practice funeral directing will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.6(4) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

101.6(5) A person licensed to practice as a funeral director will keep the license certificate displayed in a conspicuous public place at the primary site of practice.

101.6(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

101.6(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a funeral director in Iowa until the license is reactivated. A licensee who practices as a funeral director in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—101.7(272C) Renewal of a funeral establishment license or a cremation establishment license.

101.7(1) The renewal cycle will be triennial beginning July 1 and ending on June 30 of the third year. The renewal will be:
a. Complete an online renewal application on the Iowa Board of Mortuary Science website and pay the renewal fee.

101.7(2) Failure to receive notice from the board will not relieve the license holder of the obligation to pay triennial renewal fees on or before the renewal date.

101.7(3) Funeral and cremation establishments will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.7(4) Late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration will be charged.

101.7(5) When all requirements for license renewal are met, the licensee will be sent a license renewal card by email.

645—101.8(272C) Inactive funeral establishment license or cremation establishment license.

101.8(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or cremation establishment license, complete an online reactivation application on the Iowa Board of Mortuary Science website and pay the reactivation fee.

101.8(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and will not provide mortuary science services until the license is reactivated.

645—101.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.9(272C) prior to offering mortuary science services from that establishment in this state.

[ARC 3083C, IAB 5/24/17, effective 6/28/17]

645—101.10(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee will:

101.10(1) Complete an online reactivation application on the Iowa Board of Mortuary Science website and pay the reactivation fee.

101.10(2) Provide verification of current competence to practice as a funeral director by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 24 hours of continuing education that meet continuing education standards defined in 645—102.3(156,272C) within two years prior to filing the application for reactivation; and

(3) Verification of completion of 2 hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours will be included as a part of the 24 hours required in subparagraph 101.11(3) “a”(2).

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 645—subrule 102.3(1) and 645—paragraphs 102.3(2) “a,” “b,” “c,” and “e,” within two years prior to filing the application for reactivation. Independent study identified in 645—paragraph 102.3(2) “f” will not exceed 24 hours of the 48 hours; and

(3) Verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—101.11(17A,147,272C) Reinstatement of a funeral director license. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	11
Proposed word count reduction after repeal and/or re-promulgation	1,138
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	100

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Inspections, Appeals, & Licensing	Date:	August 17, 2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	102 Continuing Education for Funeral Directors	Iowa Code Section Authorizing Rule:	156, 272C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for Funeral Directors. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to maintain and improve a licensee’s knowledge and skills to improve the safety and welfare delivered to the public.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because they are ensuring Iowa licensees are obtaining and maintaining a sufficient minimal level of ongoing education in the profession. These requirements are also in line with national practices. The International Conference of Funeral Service Examining Boards conducted a survey that illustrates of the 50 states, 40 require some amount of continuing education to ensure licensees understand best practices that integrally relate to their profession.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. It is the responsibility of each licensee to finance the cost of continuing education with no cost to the public.

Funeral directors can obtain a bundle on-line course for approximately \$50.00 that meets general criteria. The Iowa Funeral Directors Association offers free continuing education to licensees as part of their membership.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries, support, and maintenance to ensure continuing education requirements are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards. An executive officer supports the work of this board at approximately 0.29. of an FTE. Primary support is provided by triaging questions on continuing education requirements.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The least restrictive alternative would be to reduce continuing education hours. For this profession, licensees need to comply with other regulations not only within their jurisdiction, but for those established by the FTC and Iowa Insurance Division for pre-need sales that are primarily obtained through continuing education. The Model Act developed by the International Conference of Funeral Service Examining Boards recognizes the value continuing education is to maintain competency.

The Board has not identified a more cost-effective alternative to the current internal process administered by compliance audits. Outsourcing could potentially incur a higher pass-through expense onto the licensee and compromise data integrity.

The Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These proposed rule edits supports this effort.

Staff will hold a conversation with members at the next board meeting to discuss recommendations of decreasing the continuing education requirements. That recommendation may occur when the rules are presented for notice of intended action.

South Dakota – no CEU requirements.
Kansas – 12 CEUs every two years.
Nebraska – 12 CEUs every two years.
Minnesota – 15 CEUs every two years.
Wisconsin – 15 CEUs every two years.
Illinois – 24 CEUs every two years.
Iowa – 24 CEUs every two years.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity through the EO 10 guidance to remove duplicate, redundant and restrictive language in rule.

102.1 – removes restrictive language
102.2 – removes restrictive and redundant language.

102.3 – removes restrictive language.
102.4 – removes restrictive language.
102.4 – rescinded place holder and renumbers proceeding rule.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 102
CONTINUING EDUCATION FOR FUNERAL DIRECTORS

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“Active license” means a license that is current and has not expired.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of mortuary science.

“Continuing education” means planned, organized learning acts that are designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public and that meet the standards set forth in these rules.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of continuing education.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in these rules and includes a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as a funeral director in the state of Iowa.

645—102.2(272C) Continuing education requirements.

102.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on the fifteenth day of the licensee’s birth month and ending on the fifteenth day of the licensee’s birth month. Each biennium, a person who holds an active license will be required to complete a minimum of 24 hours of continuing education activity. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A minimum of 12 hours of the 24 hours of continuing education required for renewal will be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

102.2(2) Requirements of new licensees. Continuing education is not required in the first renewal period. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per

biennium for each subsequent license renewal.

102.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity as stipulated in rule.

102.2(4) No hours of continuing education will be carried over into the next biennium except as stated in subrule 102.2(2). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

102.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—102.3(156,272C) Standards.

102.3(1) General criteria. A continuing education activity must meet the following criteria:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertain to subject matters which integrally relate to the practice of the profession;
- c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.
- d. Fulfill stated program goals, objectives, or both; and
- e. Provide proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 102.3(1)“e” for two years after the biennium has ended.

102.3(2) Specific criteria.

- a. The following categories of continuing education are accepted:
 - (1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.
 - (2) Business management: accounting, funeral home and crematory management and merchandising, computer application, funeral directing, and small business management.
 - (3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.
 - (4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. Insurance will be related to life insurance and will not exceed 8 hours each biennium.

b. Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

- 1 academic semester hour = 10 continuing education hours
- 1 academic trimester hour = 8 continuing education hours
- 1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course which is offered or sponsored by a state or national funeral association that meets the criteria in subrule 102.3(1) and paragraph 102.3(2)“a” is accepted.

d. Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph

102.3(2)“a,” must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. Continuing education credit obtained by independent study will not exceed 12 hours of the 24 hours required during the compliance period.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours will be granted only once per biennium for identical presentations.

f. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—102.4(83GA,SF2325) Automatic exemption. A licensee will be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or
3. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	157
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	DIAL	Date:	8/25/23	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 103	Iowa Code Section Authorizing Rule:	Iowa Code chapters 17A, 147,156, 272C
Contact Name:	Dennis Tibben	Email:	dennis.tibben@dia.iowa.gov	Phone:	515.281-7008

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Disciplinary rules are important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, and to reduce redundant language, one shared disciplinary chapter has been created that applies to all professions.

Is the benefit being achieved? Please provide evidence.

Discipline allows for action to be taken against licensees found to have violated the requirements of their profession. In 2022 the 19 Boards in the legacy HHS Bureau of Professional Licensure received 322 complaints and issued 28 public discipline orders. In 2021 the Boards received 352 complaints and issued 42 public discipline orders. These Boards regulate professions with skilled scopes of practice that could harm the public if not regulated.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rules in this chapter include professional competency, so there would be a cost to the practitioner in taking the needed time to remain competent in their field which may include reviewing medical journals, researching best practices, etc. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.29 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support

the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

In order to regulate the professions as directed in statute, discipline authority and action are critical to protecting the public safety. Discipline ensures corrective action of licensees not abiding by requirements established to reduce harm to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

While disciplinary authority is necessary to regulate, the shared disciplinary chapter (IAC 645.13) meets the needs to regulate mortuary science. Ultimately, 645.103 as it exists in current state is unnecessary.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule, eliminate the obsolete provisions of the rule, and combine standard provisions into this one chapter in accordance with EO10.

DIAL - Division of Licensing is responsible for implementing SF 193. At this time, we are working through bill implementation which will include rulemaking. Rather than fully repealing this chapter and having to renumber chapters, knowing we will need a chapter dedicated to implementation, we are proposing we save IAC 645.103 as a Reserved chapter.

RULES PROPOSED FOR REPEAL (list rule number[s]):

Chapter 103 in full as the chapter is duplicative with IAC 645.13 which still grants the Mortuary Science Board discipline authority necessary to regulate the profession.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 103

Reserved.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	3011
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	36

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	July 20, 2023	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	104 Disciplinary Proceedings, formerly 103	Iowa Code Section Authorizing Rule:	156, 17A, 147, and 272C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for the practice of mortuary science. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected. This can include restrictions, suspension, or revocation of a license to practice. The rule also creates a process to place a licensee on probation for the purpose of protecting the public who rely upon these licensed individuals and establishments for the performance of mortuary science services.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the mortuary sciences profession and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

Yes, the Board has opened and investigated just 35 complaints since 2021. In total, the Board licenses (insert licensing data here). Having clearly articulated disciplinary standards help to ensure licensees understand their professional obligations and help to expedite resolution of cases where concerns have been raised. While the overall number of complaints filed with the Board is low, these cases frequently involve instances where family members contact the Board with concerns over the services provided for their deceased loved ones. These regulations ensure accountability at one of the difficult moments in the lives of Iowa families.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, regulating the professional standards of practice are associated with costs to the licensed professional. This rule is related to standard of care, so there would be a cost to the practitioner and/or establishment to conform to these standards. The Board is unable to assess a cost related to implementing discipline.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.29 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The cost of inaction would increase the potential to harm consumers by allowing a licensed provider to continue providing services without corrective measures, education, or any form of discipline. Because there are only a small number of complaints submitted, costs are extremely low.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. Consideration could be given to reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that consumers are protected. There has been consideration to standardizing criminal convictions and their sanctions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board took the opportunity to review the rule to meet the EO 10 guidance. This chapter was retained in its entirety because the discipline is unique to the profession.

The entire chapter will be repealed and re-promulgated as Chapter 104.

104.3(1)(b) replaces department of public health with department of inspections, appeals and licensing.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

645—103.1(156) Definitions.

“*Board*” means the board of mortuary science.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means an individual licensed pursuant to Iowa Code section 156.4 to practice as a funeral director in Iowa and a person issued an establishment license pursuant to Iowa Code section 156.14 to establish, conduct, or maintain a funeral establishment or cremation establishment in Iowa.

645—103.2(17A,147,156,272C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 147, 156, and 272C and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and establishments for the performance of mortuary science services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 147.55, 272C.3 to 272C.6 and 272C.10 and Iowa Code chapter 156.

645—103.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

103.3(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed when making application for a license in this state, or
- b. Attempting to file or filing with the board or the department of inspections and appeals and licensing any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

103.3(2) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of a funeral director in this state.

103.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business records through false or deceptive representations or omissions.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.
- f. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.
- g. Representing oneself as a funeral director when one’s license has been suspended, revoked, or surrendered, or when one’s license is on inactive status.
- h. Permitting another person to use the licensee’s license for any purposes.
- i. Misrepresenting the legal need or other requirement for embalming.
- j. Fraud in representations as to skill or ability.

103.3(4) Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

- a. Practice outside the scope of the profession which requires licensure by a different professional licensing board.
- b. Any violation of Iowa Code chapter 144.
- c. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of mortuary science or such behavior otherwise provides a

reasonable basis for the board to conclude that such behavior would place the public at risk within the practice of mortuary science.

d. Betrayal of a professional confidence.

e. Engaging in a professional conflict of interest.

f. Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.

h. Failure to keep and maintain records as required by Iowa Code chapter 156 and associated rules.

103.3(5) Unlicensed practice.

a. Practicing mortuary science when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.

b. Practicing mortuary science within an unlicensed funeral or cremation establishment.

c. Permitting an unlicensed employee or other person under the licensee's control or supervision to perform activities requiring a license.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science, or aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under Iowa Code section 156.16.

103.3(6) Lack of proper qualifications.

a. Continuing to practice as a funeral director without satisfying the continuing education mandated by 645—Chapter 102.

b. Acting as a preceptor or continuing education provider without proper board approval or qualification.

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the licensee's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b."

103.3(7) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes:

a. A failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results.

b. Any conduct, practice or condition which impairs a licensee's ability to safely and skillfully practice the profession.

103.3(8) Professional misconduct.

a. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of mortuary science, including, but not limited to, Iowa Code chapters 272C, 144, 147, 156, 523A, 523I, 566, and 566A; board rules, including rules of professional conduct set forth in 645—Chapter 100; and regulations promulgated by the Federal Trade Commission relating to funeral services or merchandise, or funeral or cremation establishments, as applicable to the profession. Any violation involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

103.3(9) Willful or repeated violations. The willful or repeated violation of any provision of Iowa Code chapter 147, 156, or 272C.

103.3(10) Failure to report.

a. Failure by a licensee or an applicant for licensure to report in writing to the board any revocation, suspension, or other

disciplinary action taken by a licensing authority within 30 days of the final action.

b. Failure of a licensee or an applicant for licensure to report, within 30 days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action.

c. Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

e. Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

f. Failure to report a change of name or address within 30 days after it occurs.

103.3(11) Failure to comply with board order.

a. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

b. Failure to pay costs assessed in any disciplinary action.

103.3(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

103.3(13) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

103.3(14) Failure to comply with conditions of Iowa Code sections 142C.10 and 142C.10A.

[ARC 3083C, IAB 5/24/17, effective 6/28/17; ARC 5760C, IAB 7/14/21, effective 8/18/21]

645—103.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments.

The board may initiate disciplinary action against a funeral establishment or cremation establishment, at time of license application or thereafter, based on all grounds set forth in Iowa Code section 156.15, summarized as follows:

103.4(1) The licensee or applicant has been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, the managing officer or owner has been convicted of such a crime under the laws of this state, another state, or the United States.

103.4(2) The licensee or applicant, or any owner or employee of the establishment has violated Iowa Code chapter 156, rule 645—103.3(17A,147,156,272C), or any other rule promulgated by the board.

103.4(3) The licensee or applicant knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

103.4(4) The licensee or applicant failed to engage in or ceased to engage in the business described in the application for licensure.

103.4(5) The licensee or applicant failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

103.4(6) The licensee or owner of the establishment has violated the smokefree air Act, Iowa Code chapter 142D.

[ARC 3083C, IAB 5/24/17, effective 6/28/17]

645—103.5(17A,147,156,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revoke a license.

2. Suspend a license until further order of the board or for a specific period.

3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.

4. Place a licensee on probation and impose such conditions as the board may reasonably impose including, but not limited to, requiring periodic reporting to the board designated features of the licensee's practice of mortuary science.

5. Require additional education or training. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.

6. Require a reexamination.

7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.

8. Impose civil penalties not to exceed \$1,000 against an individual licensed as a funeral director, or not to exceed \$10,000 against a licensed funeral establishment or cremation establishment. Civil penalties may be imposed for any of the disciplinary violations specified in 645—103.3(17A,147,156,272C) and 645—103.4(17A,147,156,272C), as applicable.
9. Issue a citation and warning, or reprimand.
10. Refuse to issue or renew a license.
11. Such other sanctions allowed by law as may be appropriate.

645—103.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions. Factors the board will consider when determining the nature and severity of the disciplinary sanction to be imposed, including whether to assess and the amount of civil penalties, include:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state.
2. Whether the amount of a civil penalty will be a substantial deterrent to the violation.
3. The circumstances leading to the violation.
4. The risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time lapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issues involved.
11. Whether the violation was willful and intentional.
12. Whether the nonlicensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether a licensee holding an inactive, suspended, restricted or revoked license engaged in practices which require licensure.
15. Any extenuating factors or other countervailing considerations.
16. Number and seriousness of prior violations or complaints.
17. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—103.7(156) Order for mental, physical, or clinical competency examination or alcohol or drug screening.

645—103.8(17A,147,156,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board’s investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	98
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?



Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 23, 2023	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	105 (formerly 104) Enforcement Proceedings Against Nonlicensees	Iowa Code Section Authorizing Rule:	156, 17A, and 147.
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intent of this chapter is to impose civil penalties against persons who are not licensed by the board and practicing mortuary science for the purpose of protecting the public who rely upon licensed individuals and establishments for the performance of mortuary science services.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit of this rule is being achieved. In the last five years, there has been only one complaint opened against an establishment providing unlicensed mortuary science services. By having clearly articulated minimum standards for an establishment and a means by which to hold establishments accountable, the Board is helping to ensure public protection.

What are the costs incurred by the public to comply with the rule?

There are no costs to members of the public. An unlicensed entity may be required to pay a civil penalty to satisfy disciplinary action. The amount of civil penalties is determined on the circumstances and severity of the violation in accordance with IAC 105.7.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.29 of an FTE.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public by allowing licensed providers to continue providing services without corrective measures, education, or any form of discipline. Because there are only a small number of complaints submitted, costs are extremely low.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of

reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to protect public from unscrupulous or potentially dangerous establishments. The Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. The proposed amendments support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The entire chapter will be repealed and re-promulgated as Chapter 105.

- 105.1 – removed restrictive language.
- 105.3 – removed restrictive language.
- 105.5 – removed restrictive language.
- 105.6(3) – removed restrictive language.
- 105.6(4) – removed restrictive language.
- 105.6(7) – removed restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 105
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

645—105.1(156) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 156.16. In addition to the procedures set forth in Iowa Code section 156.16, this chapter will apply.

645—105.2(156) Unlawful practices. Practices by unlicensed persons or establishments which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which require licensure as a funeral director under Iowa Code chapter 156.
2. Acts or practices by unlicensed establishments which require licensure as a funeral establishment or cremation establishment under Iowa Code chapter 156.
3. Use of the words “funeral director,” “mortician,” or other title in a manner which states or implies that the person is engaged in the practice of mortuary science as defined in Iowa Code chapter 156.
4. Use or attempted use of a licensee’s certificate or an expired, suspended, revoked, or nonexistent certificate.

5. Falsely impersonating a licensed funeral director.
6. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
7. Other violations of Iowa Code chapter 156.
8. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

645—105.3(156) Investigations. The board is authorized by Iowa Code sections 17A.13(1) and 156.16 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in this chapter. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

645—105.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 645—9.5(17A,272C).

645—105.5(156) Notice of intent to impose civil penalties. The notice of the board’s intent to issue an order to require compliance with Iowa Code chapter 156 and to impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 156.
5. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing must be requested.
6. The address to which written request for hearing must be made.

645—105.6(156) Requests for hearings.

104.6(1) Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

105.6(2) If a request for hearing is not timely made, the board chairperson or the chairperson’s designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 156, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

105.6(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees.

105.6(4) A nonlicensed person who fails to timely request a contested case hearing will have failed to exhaust “adequate administrative remedies” as that term is used in Iowa Code section 17A.19(1).

105.6(5) A nonlicensed person who is aggrieved or adversely affected by the board’s final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

105.6(6) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 156 at any stage of the proceeding upon mutual consent of the board.

105.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 645—11.30(272C). Hearings will be open to the public.

645—105.7(156) Factors to consider. The board may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.

5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the nonlicensee acted in bad faith.
14. Whether the nonlicensee cooperated with the board.

645—105.8(156) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code section 156.16.

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	20
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	7/20/23	Total Rule Count:	15
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 121	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the hearing aid dispenser profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a hearing aid dispenser in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa licensed hearing aid specialist are:
 Education: no educational requirements
 Exam fee: \$225 national exam through IHS
 Application fee: \$156 (Please note application fees are addressed in IAC 645-5.12)

In comparison, Nebraska requirements are below:
 Education: 4 years of education, HS equivalent
 Exam fee: \$225 national exam through IHS
 Application fee: \$165

In comparison, Minnesota requirements are below:
 Education: no educational requirements
 Exam fee: Hearing Instrument Dispenser exam- \$1200
 Application fee: \$772.50

Iowa's initial licensure application process is similar to those implemented by other state boards of hearing aid dispensers.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the licensing and Regulation Fund established in SF 557. It takes roughly .33 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation could be viable such as registration. That said, hearing aid dispensing is regulated in all 50 states. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rule provides consistency related to the licensure of hearing aid dispensers in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

121.1: Removed redundant and obsolete language from the definitions. Added clarifying language
121.2: Removed redundant language, replaced restrictive terms with less restrictive alternatives, combined a portion with 121.3 to remove redundant language

121.3 Removed redundant language, replaced restrictive terms with less restrictive alternatives
121.4 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
121.6 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
121.8 Removed obsolete language, replaced restrictive terms with less restrictive alternatives
121.9 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
121.14 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
121.15 Removed redundant and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

121.5 Removed redundant and obsolete language, combined with other rules
121.7 Reserved chapter
121.10-121.13 Reserved chapter

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

HEARING AID SPECIALISTS

CHAPTER 121 LICENSURE OF HEARING AID SPECIALISTS

CHAPTER 122 CONTINUING EDUCATION FOR HEARING AID SPECIALISTS CHAPTER 123 PRACTICE OF HEARING AID DISPENSING

CHAPTER 124 DISCIPLINE FOR HEARING AID SPECIALISTS

CHAPTER 121

LICENSURE OF HEARING AID SPECIALISTS

[Prior to 5/29/02, see 645—120.2(154A) to 120.6(154A) and 120.10(154A)]

645—121.1(154A) Definitions. For purposes of these rules, the following definitions apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of hearing aid specialists.

“*Dispense*” or “*sell*” means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or hearing aid specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Hearing aid specialist*” means any person engaged in the fitting, dispensing and sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board. These rules are not intended to regulate unlicensed people who sell, dispense, market, use, distribute, or provide customer support to over-the-counter hearing aids, as regulated by the U.S. food and drug administration.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*License*” means a license issued by the state to a hearing aid specialist.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a hearing aid specialist to an applicant

who is or has been licensed in another state.

“*National examination*” means the standardized licensing examination of the International Hearing Society (IHS) or its successor organization.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—121.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

“*Temporary permit*” means a permit issued while the applicant is in training to become a licensed hearing aid specialist.

“*Trainee*” means the holder of a temporary permit.

645—121.2(154A) Temporary permits.

121.2(1) The applicant will submit a completed online application and pay the non-refundable licensure fee specified in 645-subrule 5.12. The application will be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision to be provided to the trainee;
- b. A list of the subjects to be covered;
- c. The books and other training materials to be used for training; and
- d. An outline of the training program to prepare the trainee for examination.

121.2(2) A temporary permit is valid for one year and shall not be renewable.

121.2(3) The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

645—121.3(154A) Supervision requirements.

121.3(1) The supervisor(s) of temporary permit holders will:

- a. Have a current hearing aid specialist license valid for the preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise no more than three trainees at the same time;
- d. Be responsible for training the temporary permit holder.
- e. For the first 90 days, provide a minimum of 20 hours of direct supervision;
- f. Provide direct supervision for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids in the first 90 days;
- g. Evaluate the audiograms and determine which hearing aid and ear mold will best compensate for hearing loss.
- h. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit; and
- i. Submit, on a board-approved form, a supervision report for trainees prior to taking the board-approved examination. A supervision report is required each time the temporary permit holder submits a request to take the examination; and
- j. Notify the board within 15 days of the termination of the holder of a temporary permit.

121.3(2) A trainee with a temporary permit will notify the board in writing within ten days of an interruption of training due to loss of supervision and within 30 days, obtain a replacement supervisor for continuance of the training period. A statement will be signed by each supervisor.

121.3(3) If a statement by the replacement supervisor is not submitted, the trainee will revert to new trainee status.

645—121.4(154A) Requirements for initial licensure. The following criteria applies to licensure:

121.4(1) The applicant will submit a completed online application and pay the non-refundable licensure fee specified in 645-subrule 5.7.

121.4(2) The applicant will provide verification of passing one of the following examinations:

- a. The national examination through the International Hearing Society, or
- b. The Praxis exam in Audiology through the Educational Testing Service.
- c. The applicant may not take the national test through IHS more than six times without Board approval.

121.4(3) Applicants who hold a temporary permit are required to submit a supervisory report in accordance with paragraph 121.3(1)“i.”

121.4(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;

- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

121.4(5) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

121.4(5) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed unless requested in writing by the candidate.

645—121.5(154A) Licensure by endorsement.

121.5(1) Applicants who have been a licensed hearing aid specialist under the laws of another jurisdiction may apply for licensure by endorsement by submitting the following:

- a. Verification the applicant meets the requirements of 645-121.4;
- b. Evidence of licensure requirements that are similar to those required in Iowa;
- c. Official verification of one of the following:
 - (1) A passing score on the national examination determined by the International Hearing Society; or
 - k. A passing score on an examination that the board determines is equivalent to the national
- (2) examination; or
- (3) Current certification from the National Board for Certification in Hearing Instrument Sciences;

and

- d. Evidence of:
 - (1) Completing a minimum of 32 continuing education hours within the 24 months prior to application; or
 - (2) Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met; or

121.5(2) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—121.6(154A) Display of license. Hearing aid specialists will display their original licenses in a conspicuous public place at the primary site of practice.

645—121.7(154A) License renewal.

121.7(1) The biennial license renewal period for a hearing aid specialist license will begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

121.7(2) A licensee applying for renewal will:

- a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

121.7(3) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.7(5). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

121.7(4) Mandatory reporter training requirements.

- a. A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of their professional practice will complete the applicable department of health and human services' training relating to the identification reporting of child abuse and/or dependent adult abuse. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “b.”

121.7(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for

further consideration or disciplinary investigation.

121.7(6) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

645—121.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee will :

121.8(1) Submit a completed online reactivation application and payment of the nonrefundable application fee.

121.8(2) Provide verification of current competence to practice as a hearing aid specialist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant will provide the following:

1. Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

645—121.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a hearing aid specialist in this state.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	1140
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	35

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

The following proposed code changes have been proposed by the board sub-committee and/or prospective licensees:

154A.12 Scope of examination.

1. The examination required by this chapter shall be designed to demonstrate the applicant's adequate technical qualifications including but not limited to the following:

a. Evidence of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.

~~*b.* Evidence of knowledge of the medical and rehabilitation facilities that are available in the area served, for children and adults who have hearing problems.~~

c. Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.

~~2. The board shall not require the applicant to possess the degree of professional competence normally expected of physicians.~~

Reason for code change recommendation: The exam currently does not cover b. as it is a national exam. This whole section could be eliminated if that would be preferable, or added to rules instead of being in code

154A.13 Temporary permit. A person who has not been licensed as a hearing aid specialist may obtain a temporary

permit from the department upon completion of the application accompanied by the written verification of employment from a licensed hearing aid specialist. The department shall issue a temporary permit for ~~one year~~ two years which shall not be renewed or reissued. The fee for issuance of the temporary permit shall be set by the board in accordance with the provisions for establishment of fees in section 147.80. The temporary permit entitles an applicant to engage in the fitting or selection and sale of hearing aids under the supervision of a person holding a valid license.

Reason for code change recommendation: Several other boards offer a two year temp license or the option to renew at board discretion. Some temporary permit holders are not able to gain all of the experience and practice they need to pass an exam in one year.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 122	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for hearing aid specialists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that hearing aid specialists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that hearing aid specialists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Hearing Healthcare Instructional Institute offers continuing education credits for \$25 per credit. Currently 30 CEUs are required per year, so licensees may pay approximately \$750 per year. AudiologyOnline membership is \$99 per year and provides access to more than 1500 audiology CEU courses.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.33 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states do successfully manage continuing education programs with fewer hours required per renewal cycle. Currently, Iowa requires 32 hours of continuing education every two years. A review of surrounding states indicates that Illinois and Kansas require 20 hours, Nebraska, Missouri and South Dakota require 24 and Minnesota requires 30. After discussions with the Board regarding this topic, representatives of the board were in agreement to reduce the total number of hours every two years from 32 to 24.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

122.1 Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives, made definitions consistent with other HAS chapters

122.2 Removed redundant language, replaced restrictive terms with less restrictive alternatives

122.3 Removed redundant and obsolete language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

122.4-122.11- rescinded chapters already

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 122
CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

645—122.1(154A) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules.

“*License*” means a license issued by the state to a hearing aid specialist.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.

645—122.2(154A) Continuing education requirements.

122.2(1) The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid specialist in this state is required to complete a minimum of 24 hours of continuing education. A minimum of 2 hours will be in the content areas of Iowa hearing aid specialist law and rules, or ethics. Continuing education hours cannot be carried over to the next biennium.

122.2(2) Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

122.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

122.2(4) The licensee is responsible for the cost of continuing education.

645—122.3(154A,272C) Standards.

122.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Is an organized program of learning fundamental to the practice of the profession which contributes directly to the professional competency of the licensee;

b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program.

c. Fulfills stated program goals, objectives, or both; and

d. Provides proof of attendance including:

(1) Date, place, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

122.3(2) Specific criteria. Continuing education hours of credit may be obtained by completing the following in person or virtually:

- a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:
1 academic semester hour = 15 continuing education hours; and 1 academic quarter hour = 10 continuing education hours.
- b. A maximum of 4 hours of credit may be obtained by independent study. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.
- c. Attending programs, conferences, or business, technical, or professional seminars which enhance a licensee’s ability to provide quality hearing health care services.
- d. Mandatory reporter training, as specified in 645—subrule 121.9(4). Hours reported for credit shall not exceed the hours required for compliance.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	366
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	7

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 123	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with definitions relevant to the practice of hearing aid dispensing, requirements prior to the sale of a hearing aid, requirements for sales receipts for hearing aids, and requirements for record keeping and telehealth appointments. This rule articulates practice standards and provides a scope of practice for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are costs associated with practice standards, as there is often time, effort and money associated with compliance. Requirements prior to the sale of a hearing aid requires that an individual over the age of 18 years of age obtain a medical evaluation by a physician in order to determine if the individual is a fit for a hearing aid or waives that requirement and submits to a hearing examination. There are costs associated with this requirement to the public in the form of an office visit payment or co-payment. The Board believes an assessment is important because a hearing aid is a medical device and problems can occur if appropriate assessments are not conducted. Requirements for sales receipt of a hearing aid and record keeping require staff time and record keeping systems, for example. This is an expense that the licensee assumes. Conversely, telehealth provides lowans the ability to access care virtually, which has the potential to save individuals time and money. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes oversight of practice standards. The time needed to manage this provision is generally in the form of responding to questions related to practice standards. An executive officer supports the full scope of work of this board at approximately 0.33 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

This is a small profession. There are approximately 435 licensed individuals who provide these services to lowans. There are very few complaints submitted to this Board. In 2022 there were a total of five complaints submitted. Discipline is pending for three of those, one is awaiting resolution of criminal charges and another closed with no probable cause. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing this important service to lowans. If this profession were not regulated it could mean that lower skilled individuals would provide this service to lowans, which would be of concern to the Board. Hearing aid dispensing is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation could be viable such as registration. That said, hearing aid dispensing is regulated in all 50 states. There is a new federal law that allows hearing aids to be sold directly to consumers in stores or online without a medical exam or fitting for individuals over the age of 18.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

123.2 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives.

123.3 Replaced restrictive terms with less restrictive alternatives

123.4 Replaced restrictive terms with less restrictive alternatives

123.5 Replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 123
PRACTICE OF HEARING AID DISPENSING

645—123.1(154A) Definitions. For the purposes of these rules, the following definitions apply:

“*Health history*” means a series of questions pertaining to all of the following: client hearing needs and expectations; communication issues; otological conditions; medications; and previous amplification.

“*Hearing aid fitting*” means any of the following: the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, and the instruction and counseling pertaining thereto, and demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.

“*Sales receipt*” means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A).

645—123.2(154A) Requirements prior to sale of a hearing aid.

123.2(1) Except as otherwise stated in these rules, no hearing aid shall be sold to an individual 18 years of age or older unless the individual:

- a. Provides a health history to a licensed hearing aid specialist;
- b. Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been advised to obtain a medical evaluation by a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician, and that the individual chooses to waive said evaluation; and
- c. Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes, but is not limited to, an assessment of the following: air conduction; bone conduction; masking capability; speech reception thresholds; speech discrimination; uncomfortable loudness levels (UCL) and most comfortable levels (MCL).

123.2(2) Any medical evaluation completed by a licensed physician requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid specialist will be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

123.2(3) Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid specialist or person holding a temporary permit will, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual should consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

- a. Visible congenital or traumatic deformity of the ear.
- b. History of, or active drainage from the ear within the previous 90 days.
- c. History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous 90 days. Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- f. Obstruction of the ear canal by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

123.2(4) Testing is not required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

123.2(5) Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

- a. Written authorization of a parent or legal guardian consenting to the services covered in these rules, and
- b. An original signature on all documents required by law or these rules to be signed, including all sales transactions and receipts, required notifications, and warranty agreements.

123.2(6) For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. In the event of a lost or damaged hearing aid, a replacement of an identical hearing aid may be provided within one year, unless a medical

evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

645—123.3(154A) Requirements for sales receipt. Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which will include the following:

1. Licensee's signature.
2. Licensee's business address.
3. Licensee's license number.
4. Client signature and address.
5. Make, model, and serial number of the hearing aid furnished.
6. Statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, if that is the fact.
7. Full terms of sale, including:
 - The date of sale;
 - Specific warranty terms, including whether any extended warranty is available through the manufacturer;
 - Specific return policy; and
 - Whether any trial period is available.
8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: "The purchaser has been advised that any examination or representation made by a licensed hearing aid specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice."

645—123.4(154A) Requirements for record keeping. A licensee shall keep and maintain records in the licensee's office or place of business at all times, and each such record shall be kept and maintained for a seven-year period.

123.4(1) The records for each person will include:

- a. A complete record of each test performed and the results of the test.
- b. A copy of any written recommendations.
- c. A copy of medical clearances or waivers.
- d. A copy of the written sales receipt.
- e. A copy of terms of sale, including any warranty. A record of any adjustments or services provided on the hearing aid device, including whether such services were provided under warranty or other agreement.
- f. A notation that the client consented, either verbally or in writing, to a service or services provided through a telehealth appointment, if applicable.

123.4(2) No less than 30 days prior to closure of a licensee's business, the licensee will provide written notification to clients of the location at which records will be maintained for a period of no less than 30 days following closure and the procedure to obtain those records. The licensee may arrange the transfer of records to another licensee for the purpose of maintenance of the records, provided that all contractual agreements have been satisfied.

645—123.5(154A) Telehealth appointments. A licensee may conduct a telehealth appointment so long as the services are provided in accordance with this rule.

123.5(1) A "telehealth appointment" is one wherein the licensee provides testing or adjustment services to a client using technology where the hearing aid specialist and the client are not at the same physical location during the appointment.

123.5(2) Conducting a telehealth appointment with a client who is physically located in Iowa during the appointment, regardless of the location of the hearing aid specialist, requires Iowa licensure.

123.5(3) When conducting a telehealth appointment, a licensee will utilize technology that is secure, HIPAA-compliant, and that includes, at a minimum, audio and video equipment that allows for two-way, real-time interactive communication between the licensee and the client. The licensee may use non-real-time technologies to prepare for an appointment or to communicate with clients between appointments.

123.5(4) A licensee who conducts a telehealth appointment will be held to the same standard of care as a licensee who provides in-person services. A licensee will not utilize a telehealth appointment if the standard of care for the particular service cannot be met using telehealth technology.

123.5(5) Prior to the first telehealth appointment with a client, the licensee will obtain informed consent from the client that is specific to the service or services that will be provided in the telehealth appointment. The informed consent will specifically inform the client of, at a minimum, the following:

- a. The risks and limitations of the use of technology to the specific service;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth appointment.

123.5(6) A licensee will only conduct a telehealth appointment if the licensee is competent to provide the particular service using telehealth technology. A licensee's competence to provide a particular service using telehealth technology will be established by the licensee's education, training, and experience.

123.5(7) A licensee who conducts a telehealth appointment will note in the client's record that the service or services were provided through a telehealth appointment.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1820-1639=181
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 124	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for hearing aid specialists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the hearing aid specialist profession and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Hearing Aid Specialist Board receives a low number of complaints. In 2022, there were a total of five complaints submitted. Discipline is pending for three of those, one is awaiting resolution of criminal charges and another closed with no probable cause. Hearing Aid Dispensers is a very small profession at approximately 435 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, dispensing hearing aids is a form of healthcare that requires a level of skill, so the Board believes that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1,000 per incidence, with a maximum of \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.15 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practice of hearing aid dispensing requires skill and knowledge.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

124.2 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

124.1 removed duplicative/unnecessary definitions, replaced restrictive terms with less restrictive terms
124.3 removed duplicative language found in 645 Chapter 13
124.4 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 124
DISCIPLINE FOR HEARING AID SPECIALISTS

645—124.2(154A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—124.3(154A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645.13:

124.2(1) Failure to comply with the current Code of Ethics of the International Hearing Society. The board hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at www.ihsinfo.org.

124.2(2) Advertising that hearing testing or hearing screening is a medical examination used to diagnose or refer.

124.2(4) Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid will not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 645—Chapter 123. Testing equipment will be calibrated to current standards at least annually or more often if necessary. The distributor will keep with the testing equipment a certificate indicating the date of calibration.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1832-179=1653
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 131	Iowa Code Section Authorizing Rule:	152C, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@idph.iowa.gov	Phone:	515-725-2714

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the massage therapy profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a massage therapist in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa licensed massage therapist are:
 Education: \$12,608 average for schools in Iowa (Iowa requires a minimum of 600 hours of education.)
 Exam fee: \$265
 Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)
 Total Estimated Cost: \$12,993

In comparison, Nebraska requirements are below:
 Education: \$15,000 average for schools in Nebraska (Nebraska requires a minimum of 1000 hours of education)
 Exam fee: \$265
 Application fee: \$110
 Nebraska Jurisprudence Examination: Free
 Total Estimated Cost: \$1875

Illinois massage therapy requirements are below:
 Education: \$14,150 average for schools in Illinois (Illinois requires a minimum of 600 hours of education)
 Exam fee: \$265

Application fee: \$175
Fingerprinting: \$60 approximately
Total Estimated Cost: \$14,650

Iowa's initial licensure application process is similar to those implemented by other state boards of massage therapy. Some states, such as Nebraska, require applicants to also pass a state jurisprudence examination.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .25 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners. According to the Federation for State Massage Therapy Boards (FSMTB), Iowa is one of 47 states in the U.S. that regulates massage therapy.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of massage therapists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario, including the possibility of an increase in human trafficking and illicit massage establishments in our state.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

131.1: Removed redundant and obsolete language from the definitions and clarified a definition

131.2: Replaced restrictive term with less restrictive alternative, combined to remove redundant language

- 131.4 Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 131.6 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 131.7 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
- 131.8 Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 131.9 Replaced restrictive term with less restrictive alternative, combined to remove redundant language

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

MASSAGE THERAPISTS

CHAPTER 131

LICENSURE OF MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—130.4(152c) and 645—130.6 (152C)]

645—131.1(152C) Definitions.

“Anniversary month” means the month the license was issued by the board.

“Board” means the Iowa board of massage therapy.

“Board-approved school” means a school for massage therapy education that provides at least 600 hours of supervised academic instruction; has been recognized as legitimate by the board in the state where the school is located, or in the state where the school was located if the school has since closed; has been recognized by a similar board in another jurisdiction that licenses massage therapists if massage therapy is not a licensed profession in the state where the school is located; and has not been denied, suspended, or revoked by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Issuing jurisdiction” means the duly constituted authority in another state that has issued a massage therapy license to a person.

“Licensee” means any person licensed to practice as a massage therapist in the state of Iowa. *“License expiration date”* means the fifteenth day of the anniversary month every two years. *“Massage therapy”* means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

645—131.2(272C) Licensure by examination. A person who has completed the curriculum at a board-approved school may seek licensure in accordance with this rule.

131.2(1) Submit the following:

a. A completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.8. Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination

or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

c. If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of licenses from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdictions to the board. Web-based verification may be substituted for verification from the jurisdiction's board office if the verification provides:

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and
- (4) Any disciplinary action taken against the license.

131.2(2) An applicant who has relocated to Iowa from a state that did not require licensure to practice massage therapy may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

645—131.3(152C) Educational qualifications for foreign-trained massage therapists. Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

131.3(1) Provide an equivalency evaluation of their educational credentials by one of the following entities demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

a. International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; website www.ierf.org.

b. International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone (727)549-8555.

c. Josef Silny & Associates, Inc., 7101 SW 102nd Avenue, Miami, FL 33173; telephone (305)273-1616; website jsilny.org.

131.3(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

131.3(3) Receive a final determination from the board that the applicant's education is acceptable.

645—131.4(152C) Licensure by endorsement.

131.4(1) A person who has been issued a license to practice massage therapy by another issuing jurisdiction may seek licensure in accordance with this rule.

131.4(2) Submit the following:

a. A completed online application for licensure and pay non-refundable licensure fee specified in 645-subrule 5.8.

a. Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

c. Proof that the licensure requirements in the issuing jurisdiction are equal to or exceed the requirements provided in rule 645—131.2(152C).

d. Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from the issuing jurisdiction's board office if the verification provides:

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and

- (4) Any disciplinary action taken against the license.

645—131.5(152C) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—131.6(152C) Temporary license. A person who is licensed to practice massage therapy in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement, and who does not seek licensure by verification, may be issued a temporary license in accordance with this rule.

131.6(1) An applicant for temporary license shall submit the following:

a. A completed online application for licensure and pay non-refundable licensure fee specified in 645-subrule 5.8.
b. Verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the issuing jurisdiction(s) to the board. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

c. A plan for meeting all remaining requirements for licensure within one year of issuance of the temporary permit. Such a plan include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

131.6(2) A temporary license valid for a period of up to one year and will not be renewed.

131.6(3) A temporary license holder shall be issued a permanent license upon the board's receipt of the following:

a. Official copies of academic transcripts sent directly to the board by the board-approved school demonstrating completion of all remaining hours of education for licensure.
b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

645—131.7(152C) License display. The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

645—131.8(152C) License renewal.

131.8(1) The biennial license renewal period begins on the sixteenth day of the anniversary month and end on the fifteenth day of the anniversary month two years later. The licensee is responsible for renewing the license prior to its expiration.

131.8(2) Continuing education does not need to be completed during the first biennial license renewal period and is not a prerequisite for the first renewal of a license.

131.8(3) A licensee seeking renewal shall comply with the following before the license expiration date:

a. Submit a completed renewal application and renewal fee specified in 645-subrule 5.8, before the license expiration date; and
b. Meet the continuing education requirements of rule 645—133.2(152C) and the mandatory reporting requirements of subrule 131.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

131.8(4) Mandatory reporter training.

A licensee who, in the scope of professional practice or in the licensee's employment responsibilities examines, attends,

counsels, or treats children and dependent adults in Iowa shall

a. complete the applicable department of health and human services' training related to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3)"b." The licensee will indicate on the renewal application completion of such training.

b. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States; or
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill the requirements due to a physical or mental disability or illness as provided by rule 645—4.14(272C).

c. The board may select licensees for audit of compliance with the requirements of this subrule.

131.8(5) Issuing renewals. Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license renewal. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

131.8(6) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 645—subrule 5.8(4). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

131.8(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—131.9(17A,147,272C) License reactivation.

131.9(1) A person whose license is inactive may apply to reactivate the license in accordance with this rule.

131.9(2) The licensee shall submit all of the following:

- a. A completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.8. If the license has been inactive for five years or less, submission of:
- (1) Proof of completion of 16 hours of continuing education within two years of application; and
 - (2) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:
 1. Licensee's name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license.
- b. If the license has been on inactive status for more than five years, submission of:
- (1) Proof of completion of 16 hours of continuing education within two years of application;
 - (1) Proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application, or proof of passing one of the following examinations within two years of submitting the application:
 1. The National Certification Examination for Therapeutic Massage (NCETM);
 2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
 3. The National Examination for States Licensing (NESL) option; or
 4. The Massage and Bodywork Licensing Examination (MBLEx); and
 - (2) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the

verification includes:

5. Licensee's name;
6. Date of initial licensure;
7. Current licensure status; and
8. Any disciplinary action taken against the license.

645—131.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and, if applicable, must apply for and be granted reactivation of the license in accordance with rule 645—131.9(17A,147,272C) prior to practicing as a massage therapist in this state.

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****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	357
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

152C.9 Exemptions.

This chapter shall not apply to the following persons:

1. Persons who are licensed to practice medicine or surgery, osteopathic medicine and surgery, chiropractic, cosmetology arts and sciences, or podiatry in this state; or athletic trainers, technicians, nurses, occupational therapists, physical therapists, or physician assistants licensed, certified, or registered in this state or acting under the prescription or supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery in this state, **who are engaged in the practice of their respective professions.**

Other professions with this language around exemptions specify that the practitioner who is exempt is engaging in the practice of their identified profession and not just able to practice massage therapy because they are part of another licensed health profession.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 132	Iowa Code Section Authorizing Rule:	152C, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@idph.iowa.gov	Phone:	515-725-2714

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for the education provided to massage therapists. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which schools can be recognized as having an approved massage therapy curriculum, and as an approved massage therapy school. This includes ensuring the school meets curriculum requirements and student clinical practicum standards, as well as appropriate retention of school records. These requirements ensure public safety by setting standards that will allow schools to graduate students into the profession with the minimum competency needed to safely serve the public.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified schools are board approved. Additionally, the rule satisfies the statutory requirement in 152C.

What are the costs incurred by the public to comply with the rule?

There is no direct public cost to the general public, but there is a cost to the applicant, as complying with the minimum requirements for curriculum approval are at the expense of the school/owner.

Iowa currently has 21 massage therapy schools with approved curriculums. The fee is \$120.00 and approval is valid for up to two years. Documents required for approval include the school catalog, a description of the curriculum delivery system, course descriptions, and program accreditation or approval by other professional entities, as well as a sample diploma and a sample transcript.

Twenty-one states have Boards with the authority to approve/recognize massage therapy schools. Many states, including Nebraska, not only approve massage therapy curriculums, but also license the schools. As a result, in addition to requiring the curriculum information, Nebraska also requires information about ownership, physical space, and educators. They also do regular inspections. The fee for school licensure in Nebraska is \$150, with a \$10 fee for a school name change or owner change. (Nebraska also licenses massage therapy establishments.)

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes less than .05 of an FTE to review curriculum approval materials. Curriculum approval fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and renewal. If a concern arose regarding the quality or legitimacy of an application, the application may be forwarded to the full board for additional review prior to approval.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum education requirements ensures that practitioners are competent to practice. Without having an established threshold for education of the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to approve education curriculums justifies the benefits achieved because it ensures that lowans are treated be competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for curriculum approval. Existing staff within the agency perform the curriculum review, and the internal time commitment isn't such that outsourcing either task would result in the elimination of agency staff – outsourcing would only lead to additional costs borne by an external service provider. In addition, the rule outline standards related to the education and licensure of massage therapists, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

132.1: Removed redundant and obsolete language from the definitions

132.2: Removed obsolete language, replaced restrictive term with less restrictive alternative, updated to align with language in Code

132.3 Replaced redundant and obsolete language and replaced restrictive terms with less restrictive alternatives

132.4 Removed obsolete language and provided clarification

132.6 Replaced restrictive terms with less restrictive alternatives

132.7 Replaced restrictive terms with less restrictive alternatives and provided clarification

132.8 Replaced restrictive terms with less restrictive alternatives and combined similar language

RULES PROPOSED FOR REPEAL (list rule number[s]):

132.5 – Removed redundant language

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 132

MASSAGE THERAPY EDUCATION CURRICULUM

645—132.1(152C) Definitions.

“*Approved curriculum*” means that the massage therapy education course of study meets the criteria specified in this chapter and has been approved by the board of massage therapy.

“*Board*” means the board of massage therapy.

“*Clinical practicum*” means hands-on massage therapy provided to members of the public by a student who is enrolled at a massage therapy school and is under the supervision of an instructor who is an Iowa-licensed massage therapist, is physically present on the premises and is available for advice and assistance. “*Clinical practicum*” does not include classroom practice.

“*Course of study*” means a series of classroom courses, not including continuing education, which is approved by the board as having a unified purpose in training individuals toward a certificate, degree or diploma in the practice of massage therapy.

645—132.2(152C) Application for approval of massage therapy education curriculum.

132.2(1) Applications for curriculum approval of in-state massage therapy schools will be submitted online with the accompanying fee. 2). Curriculum approval is valid for up to two years with reapplication for approval due June 30 of each even-numbered year. The biennial renewal cycle begins July 1 of an even-numbered year and ends June 30 two years later. Schools that receive curriculum approval within six months prior to the start of the next biennial renewal cycle do not need to reapply for curriculum approval until the following even-numbered year.

132.2(2)) The application for curriculum approval includes the following:

- a. A completed board-approved application form;
- b. The curriculum approval application fee as specified in 645—Chapter 4;
- c. A completed Curriculum Criteria and Documentation form;
- d. The current school catalog, including name of the program(s), a description of the curriculum delivery system, course descriptions, and program accreditation or approval by other professional entities; and
- e. A sample diploma and a sample transcript that identify the name of the graduate, name of the program, graduation date, and the degree, diploma or certificate awarded.

132.2(3)) Out-of-state school curriculum will be reviewed on a case-by-case basis upon receipt of the curriculum as a part of an individual’s application for licensure to practice massage therapy in the state of Iowa.

132.2(4)) Massage therapy schools that do not renew curriculum approval by the expiration date shall be removed from the board’s list of approved curriculum providers until such time that they comply with curriculum approval requirements.

132.2(5)) Schools that apply for curriculum approval shall, at a minimum, provide a curriculum that meets the requirements of this chapter, offer a course of study of at least 600 clock hours or the equivalent in academic credit hours, and require for entrance into the massage therapy school graduation from high school or its equivalent.

645—132.3(152C) Curriculum requirements. An approved curriculum will include but not be limited to the following content areas:

1. Massage Theory and Principles .
2. Massage Professional Practices .
3. The Therapeutic Relationship .
4. Anatomy, Physiology, and Pathology .
5. Assessment and Documentation .
6. Massage and Bodywork Application .
7. Palpation and Movement .
8. Adapting Sessions for Clients .
9. Career Development .
10. Iowa Law and Professional Ethics

645—132.4(152C) Student clinical practicum standards.

132.4(1) The school must provide clinical practicum hours at the school’s primary location or an event sponsored by the school.

132.4(2) At all times when the student delivers physical contact with the public or other students, a clinical instructor/supervisor who is an Iowa-licensed massage therapist shall be personally in attendance to supervise and evaluate.

132.4(3) Students shall complete at least 200 hours of coursework in the content areas of fundamentals of massage therapy and assessment that includes indications and contraindications for treatment prior to providing services to the public and beginning the clinical practicum. Included in this 200 hours will be a minimum of 100 hours in anatomy and physiology, which includes the structure and function of the human body and common pathologies.

132.4(4) The clinical practicum shall not exceed 25% of a program’s total required hours.

645—132.6(152C) School records retention. Records documenting the student’s completion of the curriculum will be maintained for two years following the student’s graduation date. In the event of school closure, the board will be notified of the location of the records.

645—132.7(152C) Massage school curriculum compliance.

132.7(1) A school will maintain curriculum records and s make the records available to the board upon request.

132.7(2) A school whose curriculum is approved shall notify the board in writing within 30 days if there is a change of address, a school closing, or a curriculum revision that does not meet the requirements of this chapter.

132.7(3) Each student who successfully completes curriculum requirements will be awarded a certificate or diploma that includes the student’s legal name, date of graduation, the name of the program, and the degree or certificate awarded. The school will also provide them with an official transcript that includes the student’s legal name and date of graduation.

645—132.8(152C) Denial or withdrawal of approval.

132.8(1) The board will deny or withdraw approval of a school curriculum if the board determines the curriculum does not meet the requirements of this chapter.

132.8(2)) The board will notify the school in writing if the board denies or withdraws curriculum approval. Following denial or withdrawal of approval by the board, the school may request that the board reconsider its decision. The board in its sole discretion shall determine whether to grant such a request.

These rules are intended to implement Iowa Code chapter 152C

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	333
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	14

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	133	Iowa Code Section Authorizing Rule:	152C
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@idph.iowa.gov	Phone:	515-725-2714

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for massage therapists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet to comply with the rule, and the types of continuing education courses and activities that are permissible. The intended benefit of continuing education is to ensure massage therapists maintain up-to-date practice standards and, as a result, provide high quality services to Iowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires massage therapists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to Iowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates the cost to be between \$240.00 - \$640.00, every two years, for a licensee to meet these requirements. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.39 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase injury and harm to the public, and would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Iowa requires 16 hours of continuing education for this license type every two years, as does Nebraska. Illinois requires 24 hours every two years, and Missouri requires 12 yearly.

Less restrictive alternatives would be to reduce the amount of continuing education required for massage therapists. Representatives of the board reviewed the required hours and did not support reducing them.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

133.1 – Remove unnecessary definitions

133.2 – Removed restrictive language

133.3 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

133.4 – 133.7 – rescinded chapters already

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 133
CONTINUING EDUCATION FOR MASSAGE THERAPISTS
[Prior to 6/26/02, see 645—Ch 132]

645—133.1(152C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

“Board” means the board of massage therapy.

“Continuing education” means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hands-on training” means learning techniques that manipulate the soft tissue of the body.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion

of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.
“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as a massage therapist in the state of Iowa.

“Presenter” means person(s)/instructor(s) providing continuing education training.

645—133.2(152C) Continuing education requirements. Each biennium, each person who is licensed to practice as a massage therapist in this state shall be required to complete a minimum of 16 hours of continuing education. A biennium is a two-year period beginning with the date the license was granted. **133.2(1)** The biennial continuing education compliance period runs concurrently with each two-year renewal period. The renewal period begins on the date the initial license is granted and ends two years later on the day before the anniversary date of that initial license.

133.2(2) Requirements for new licensees. Those persons licensed for the first time is not required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal period may be used.

133.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity meeting the requirements of this chapter. These hours must be in accordance with these rules.

133.2(4) No hours of continuing education will be carried over into the next renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

133.2(5) The cost of continuing education is the responsibility of each licensee.

645—133.3(152C,272C) Continuing education criteria.

133.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;

Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

- b. Fulfills stated program goals, objectives, or both; and
- c. Provides proof of attendance to licensees in attendance, including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course from the course sponsor.

133.3(2) Specific criteria. A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be hands-on training. A maximum of 8 hours of the 16 hours may be independent study. Licensees may obtain continuing education hours of credit by:

- a. Attending workshops, conferences, or symposiums.
- b. Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
- c. Teaching curriculum at a school of massage therapy or presenting professional continuing education programs that meet the criteria listed in this subrule. One hour of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. A maximum of 4 hours may be awarded under this paragraph per biennium.
- d. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of massage therapy will be

necessary in order for the licensee to receive the following continuing education credits:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit
- 1 academic clock hour = 1 continuing education hour of credit

e. Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit

f. Authoring research the results of which are published in a recognized professional publication. The licensee will receive 5 hours of credit per page.

g. Taking courses directly beneficial to business practices necessary for operating a massage practice. Content areas include, but are not limited to, business management, financial management, accounting, tax preparation, marketing, human relations, communication skills, business ethics, and massage ethics.

h. Taking courses related to personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

i. Completing programs which enhance a supplemental or complementary skill set directly related to promoting the public health while providing massage therapy. Content areas include, but are not limited to, CPR, first aid, contraindication training, sanitation, and geriatric care.

j. Completing mandatory reporter training pursuant to Iowa Code sections 232.69 and 235B.16. One hour of credit will be awarded for each hour of completed mandatory reporter training.

k. Passing a board-approved national examination administered by the Federation of State Massage Therapy Boards or the National Certification Board for Therapeutic Massage and Bodywork within the biennial continuing education compliance period. A copy of the applicant's official notification may be used by the board as verification.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	199
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Licensing	Date:	8/1/2023	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 134	Iowa Code Section Authorizing Rule:	152C
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@idph.iowa.gov	Phone:	515-725-2714

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only the civil penalties that may be imposed when someone implies or represents themselves, or an individual they employ, to be a massage therapist when they are not licensed. This is unique to the massage therapy profession and excluded from the general disciplinary chapter.

The rule provides protection to both the public and licensees because it publically defines the need to obtain a massage therapy license in order to practice massage therapy, hold oneself out to the public as a massage therapist, or employ someone to provide these services, as directed in Iowa Code 152C.4. Iowans have the ability to submit a complaint of unlicensed practice to the licensing board, who can then investigate the allegation and impose civil penalties, ensuring that the public is protected and licensed massage therapists are not competing against unlicensed individuals.

Is the benefit being achieved? Please provide evidence.

The Massage Therapy Board has received 22 complaints during the first eight months of 2023, with one public action taken this year for advertising and practicing without a license. With approximately 3200 licensees, massage therapy is a small profession. While the number of complaints can call into question the extent to which a profession needs to be regulated, massage therapy is technical in nature, practitioners are serving clients who are vulnerable (often alone, partially or fully disrobed, and lying down), and the majority of the complaints received are related to sexual boundary violations or unlicensed practice. To protect the public and licensees, the Board believes that regulation is necessary. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, there is a potential cost to those holding themselves or their employees out to be massage therapists if the individual is not licensed. Those practicing without a license may be required to pay a civil penalty, up to \$10,000. The Board has statutory authority to impose a civil penalty on individuals practicing without a license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when someone practices massage therapy without a license. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately .39 of an FTE. This additionally includes responding to questions from the public and licensees on items such as licensure requirements, practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because ensuring that massage therapists are adequately educated and trained protects the public from harm.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. Exemptions already exist in statute that allow those providing services like reflexology and energy work to do so without a massage therapy license. There could be a consideration for allowing complaints about unlicensed practice or those falsely representing themselves or others to be massage therapists to be investigated by law enforcement, but the Board believes that the ability to impose civil penalties is important in order to reduce the risk of lowans receiving massage therapy services from those who may be incompetent or even predatory.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

n/a

RULES PROPOSED FOR REPEAL (list rule number[s]):

134.1 – 131.4 - removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 134
DISCIPLINE FOR MASSAGE THERAPISTS
[Prior to 6/26/02, see 645—Ch 131]

645—134.1(152C) Civil penalties.

134.1(1) Civil penalties may be imposed upon a person or business that employs an individual who is not licensed as a massage therapist. Civil penalties may be imposed upon a person or business that employs an individual who uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles which imply or represent that the employed person practices massage therapy but who is not licensed as a massage therapist. Failure to follow the above may result in:

- a. A civil penalty not to exceed \$1000 on a person or business that violates this rule:
 - (1) Each violation is a separate offense.
 - (2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;
- b. The board’s inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;
- c. A citation being sent to the alleged violator by certified mail, return receipt requested; and
- d. The board’s consideration of the following in determining civil penalties:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
- (2) The circumstances leading to or resulting in the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of noncompliance.
- (5) The welfare or best interest of the public.

134.1(2) Civil penalties may be imposed upon a person who is practicing as a massage therapist without a license. Civil penalties may be imposed upon a person who practices as an individual and uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles which imply or represent that the person practices massage therapy but who is not licensed as a massage therapist. A person must be licensed as a massage therapist to practice in this state as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed \$1000 on a person who violates this rule:

- (1) Each violation is a separate offense.
- (2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;

b. The board’s inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested;

d. The board’s consideration of the following in determining civil penalties:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
- (2) The circumstances leading to or resulting in the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of noncompliance.
- (5) The welfare or best interest of the public.

134.1(3) Issuing an order or citation.

a. The board shall provide a written notice and the opportunity to request a hearing on the record.

b. The hearing must be requested within 30 days of the issuance of the notice and shall be conducted according to Iowa Code chapter 17A.

c. The board may, in connection with a proceeding under this subrule, issue subpoenas to require the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

134.1(4) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction.

134.1(5) A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of 645—Chapter 132 and is under the supervision of a member of the school’s faculty.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1612
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/14/23	Total Rule Count:	16
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 141	Iowa Code Section Authorizing Rule:	155, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the nursing home administrator profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a nursing home administrator in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Iowa Code chapters Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa nursing home administrator are:
 Education: Bachelor degree and practicum or work experience
 Exam fee: \$440 for CORE and NHA exam through NAB
 Application fee: (Please note application fees are addressed in IAC 645-5.12)

In Comparison, Nebraska requirements are below:
 Education: degree in HC administration or AA and core education and AIT training
 Exam fee: \$440 for CORE and NHA exam through NAB
 Application fee: \$166

In comparison, Minnesota requirements are below:
 Education: Bachelor degree and practicum or AIT training
 Exam fee: \$440 for CORE and NHA exam through NAB, and state exam \$100
 Application fee: \$150

Iowa's initial licensure application process is very similar to those implemented by other state boards of nursing home administrators.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the licensing and Regulation Fund established in SF 557. It takes roughly .45 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to the licensure of nursing home administrators. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rule provides consistency related to the licensure of nursing home administrators in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

141.1: Removed redundant and obsolete language from the definitions. Added definitions for different, less restrictive pathways to licensure

141.2: Removed redundant and obsolete language, replaced restrictive terms with less restrictive

alternatives

141.4 Removed redundant and obsolete language, combined with 141.2, created new 141.4 with necessary language

141.6 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

141.7 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

141.9 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

141.15 Removed redundant and obsolete language

141.16 Removed redundant and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

141.3 Removed redundant and obsolete language

141.5 Replaced redundant and obsolete language

141.8 Removed redundant and obsolete language

141.10-141.14 Reserved chapter already

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

NURSING HOME ADMINISTRATORS

CHAPTER 141 LICENSURE OF NURSING HOME ADMINISTRATORS

CHAPTER 142 RESERVED

CHAPTER 143 CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

CHAPTER 144 DISCIPLINE FOR NURSING HOME ADMINISTRATORS

CHAPTER 141

LICENSURE OF NURSING HOME ADMINISTRATORS

645—141.1(155) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired. *“Administrator”* means a licensed nursing home administrator.

“Board” means the board of nursing home administrators.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“HSE” means a Health Services Executive as designated by the National Association of Boards of Examiners of Long Term Care Administrators.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a nursing home administrator in the state of Iowa.

“License expiration date” means December 31 of odd-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice nursing home administration to an applicant who is or has been licensed in another state.

“Preceptor” A person who is currently licensed as a nursing home administrator and is approved by the department to supervise a person in a mentoring or administrator training program.

“NAB” means National Association of Boards of Examiners of Long Term Care Administrators.

“Provisional license” means a license issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator.

“Reactivate” or “reactivation” means the process as outlined in rule 645—141.15(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

645—141.2(155) Requirements for licensure. The following criteria shall apply to licensure:

1. Submit a completed online application and pay the non-refundable licensure fee specified in 645-subrule 5.10.
2. Provide verification of certification as an HSE through NAB; or
3. Provide verification of the following:
 - a. Transcripts verifying a baccalaureate or post baccalaureate degree sent directly from an accredited college or university;
 - b. Passing score on all required national NAB exams;
 - (1) Must meet all other licensure requirements to be approved to take the exam;
 - c. Completion of one of the following:
 - (1) Administrator training program
 - (2) Practicum in long-term health care completed through an accredited college or university
 - (3) 2,080 hours of long-term health care administration may be approved by the board; or
4. An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if it provides:
 - a. Licensee’s name;
 - b. Date of initial licensure;
 - c. Current licensure status; and
 - d. Any disciplinary action taken against the license.

141.3() Foreign-trained applicants. Foreign-trained nursing home administrators will:

- a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service. A candidate will be responsible for the expense of the curriculum evaluation.
- b. Provide a copy of the certificate or diploma awarded to the applicant from a nursing home administration program in the country in which the applicant was educated.
- c. Provide satisfactory evidence of completion of administrator training program, practicum or 2,080 hours of work experience in long-term healthcare administration.

645—141.4 Preceptor Qualifications.

- a. Current licensure and at least two years of experience as a nursing home administrator
- b. Completion of a preceptor training course in the twelve months immediately prior to the preceptorship;
- c. Preceptor has not had his or her nursing home administrator license disciplined, limited, suspended, or placed on probation during the 1 year immediately prior to the application to act as a preceptor.
- d. Is not related to the training administrator.

645—141.5(155) Provisional license. A provisional license may be issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator. A provisional license is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed 12 months in an entire career. The 12 months in service are not required to be consecutive; however, a new application is required for each appointment period. It is the responsibility of the approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.

141.5(1) The limited circumstances under which the request for a provisional appointment will be granted include the inability of the licensed administrator to perform the administrator’s duties, the death of the licensed administrator, or circumstances which prevent the immediate transfer of the licensed administrator’s duties to another licensed administrator. A provisional license will not be issued to a licensed nursing home administrator.

141.5(2) Application for a provisional license shall be in writing on forms prescribed by the board. Applicants will meet the following minimum qualifications:

- a.* Be at least 18 years of age.
- b.* Be employed on a full-time basis of no less than 40 hours per week to perform the duties of the nursing home administrator.
- c.* Be knowledgeable about the nursing home administrator's domains of practice including resident care; human resources; finance; physical environment; and leadership and management.
- d.* Be without a history of unprofessional conduct or denial of or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 645—Chapter 144.
- e.* Provide evidence to establish that the provisional appointment will not exceed the lifetime maximum period of 12 calendar months in duration. For any period in which the applicant previously served as a provisional administrator, written employment verification or a written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.
- f.* Provide evidence that the provisional appointment complies with the requirements in 481—subrule 58.8(4). A written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

141.5(3) Applications for an extension of the time period for the provisional appointment within the same facility do not require the payment of an additional fee, as long as all other requirements stated in this rule are met.

141.5(4) The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval will be based on information or circumstances warranting such action. The provisional administrator will be notified of the withdrawal of approval in writing by certified mail.

645—141.6(155) Licensure by endorsement.

141.6(1) An applicant who has been a licensed nursing home administrator under the laws of another jurisdiction will file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a.* Meets the requirements of 645-141.2
- b.* Provides evidence of an active license as a nursing home administrator for at least two years just prior to application, or meets the qualifications outlined in rule 645—141.4(155);

141.6(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—141.7(147,155) License renewal.

141.7(1) The biennial license renewal period for a license to practice nursing home administration will begin on January 1 of each even-numbered year and end on December 31 of the next odd-numbered year. All licensees will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

141.7(2) An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

141.7(3) A licensee applying for renewal shall:

- a.* Meet the continuing education requirements of rule 645—143.2(272C) and the mandatory reporting requirements of subrule 141.9(8). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b.* Submit the completed renewal application and renewal fee before the license expiration date.

141.7(4) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

141.7(5) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.10(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

141.7(6) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a nursing home administrator in Iowa until the license is reactivated.

141.7(7) Licensees will display their license certificate and proof of active licensure will be in a conspicuous public place at the primary site of practice.

141.7(8) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of their professional practice will complete the applicable Department of Health and Human Services’ training relating to the identification reporting of child abuse and/or dependent adult abuse. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in 141.7(8)

645—141.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

141.8(1) Submit a completed online reactivation application and pay the non-refundable application fee.

141.8(2) Provide verification of current competence to practice as a nursing home administrator by satisfying the following criteria:

a. Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license; and

b. Verification of completion of 40 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

645—141.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a nursing home administrator in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 155, and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	2102
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	53

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

155.9 Duties of the board — rules for provisional licenses. In addition to the duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules for granting a provisional license to an administrator appointed on a temporary basis by a nursing home’s owner or owners in the event the regular administrator of the nursing home is unable to perform the administrator’s duties or the nursing home is without a licensed administrator because of death or other cause. Such provisional license shall allow the provisional licensee to perform the duties of a nursing home administrator. An individual shall not hold a provisional license for more than ~~twelve~~twenty-four total combined months, and the board may revoke or otherwise discipline a provisional licensee for cause after due notice and a hearing on a charge or complaint filed with the board.

Reason for code change recommendation: 12 months does not appear to be long enough for licensees who have become provisional administrators to complete their education in order to gain full licensure. This often leaves facilities in a situation with frequent turnover or no viable candidates, due to a lack of applicants who are licensed, especially in rural areas. Two years would enable facilities to maintain these provisional

administrators while completing their education, allowing the facilities to maintain stability and consistency for both the staff and residents. This would also allow the provisional administrators to stay in their role rather than taking a break until they are able to apply for licensure.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/15/23	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 143	Iowa Code Section Authorizing Rule:	155, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for nursing home administrators. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that nursing home administrators maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that nursing home administrators meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. It appears that NAB offers continuing education courses for licensees at \$13 to \$16 for 1.25 CEUs. Since nursing home administrators are required to complete 40 hours of continuing education every two years, that is approximately \$462 to \$640 every two years. Bundles of CEUs are also offered at \$109 for 12 CEUs.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.45 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that one state successfully manages continuing education programs with fewer hours required per renewal cycle, but others require the same amount or more. Currently, Iowa requires 40 hours of continuing education every two years. A review of surrounding states indicates that Illinois requires 36 hours, Nebraska, Minnesota, Missouri and South Dakota require 40 and Kansas requires 50. A change in the number of hours of continuing education has not been recommended due to Iowa having similar requirements to other surrounding states.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

143.1 Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives

143.2 Removed redundant language, replaced restrictive terms with less restrictive alternatives

143.3 Removed redundant and obsolete language

143.5 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives.

RULES PROPOSED FOR REPEAL (list rule number[s]):

143.4 Removed audit information included in chapter 4

143.6 Removed redundant and obsolete language and included necessary language in 143.5

143.7 Removed information already included in 645.13

143.8-11, Rescinded chapters already

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 143
CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

645—143.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a nursing home administrator in the state of Iowa.

“*National Continuing Education Review Service (NCERS)*” means the continuing education review service operated by the National Association of Boards of Examiners for Nursing Home Administrators.

645—143.2(272C) Continuing education requirements.

143.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on January 1 of each even-numbered year and ending on December 31 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 40 hours of continuing education. Continuing education hours do not carry over.

143.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

143.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

143.2(4) The licensee is responsible for the cost of continuing education.

645—143.3(155,272C) Standards.

143.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Is an organized program of learning fundamental to the practice of the profession which contributes directly to the professional competency of the licensee;

b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program.

Fulfills stated program goals, objectives, or both; and

Provides proof of attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

143.3(2) Specific criteria. Licensees may obtain continuing education hours of credit by:

a. Participating in the continuing education programs approved by the National Continuing Education Review Service (NCERS).

b. Academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours
1 academic quarter hour = 10 continuing education hours

- c. Attendance at or participation in a program or course which meets the requirements in 143.3(1).
- d. Making presentations; conducting research; producing publications; preparing new courses; participating in home study courses; attending electronically transmitted courses; and attending workshops, conferences, or symposiums.
- e. Self-study coursework that meets the criteria set forth in these rules. Continuing education credit equivalent for self-study is as follows:

180 minutes of self-study work = 1 continuing education hour

The maximum number of hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means which is not directly sponsored by and supervised by an accredited postsecondary college or university or NCERS, is 8 hours.

645—143.5(155,272C) Exemptions. A licensee is exempt from the continuing education requirement when that person:

- 1. Served honorably on active duty in the military service; or
 - 2. Resided in another state with continuing education requirements which the applicant met; or
 - 3. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States;
- or
- 4. Has a disability, illness, or primary caregiver status requiring an extension of time or exemption upon approval by the board office.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	1005
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	16

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/15/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 144	Iowa Code Section Authorizing Rule:	155, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for nursing home administrators. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the nursing home administrator profession and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Nursing Home Administrator Board receives a high number of complaints. In 2022, there were a total of 51 complaints submitted. Two of those have had disciplinary action while others have had letters of warning, letters of education, remedial letters or been closed with no probable cause. There are approximately 912 licensed nursing home administrators or provisional administrators. The board believes that the high number of complaints and the vulnerable nature of the population served demonstrates that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1,000 per incidence, with a maximum of \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.45 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Costs specific to managing complaints and investigations are higher for this board due to the number of complaints, but the Board believes that the cost does justify the benefits achieved due to the population served and nature of the complaints. Nursing home administrators serve one of the most vulnerable populations and the severity of complaints is often higher.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

144.2 removed duplicative language found in 645 Chapter 13, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

144.1 removed duplicative/unnecessary definitions

144.3 removed duplicative language found in 645 Chapter 13

144.4 removed duplicative language found in 645 Chapter 13

144.5 removed duplicative language found in 645 Chapter 4, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 144
DISCIPLINE FOR NURSING HOME ADMINISTRATORS

645—144.2(155,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—144.3(155,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13:

144.2(1) Any falsification or misrepresentation contained in any report or document attesting to the facts, conditions and activities of the internship or work experience and submitted by the applicant, administrator/preceptor or other participants may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

144.2(11) Misappropriation of resident funds or facility funds.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	2201
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/7/23	Total Rule Count:	12
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 180	Iowa Code Section Authorizing Rule:	154, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the optometry profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as an optometrist in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Estimation of the cost of licensure requirements, to become an Iowa licensed Optometrist are:

Education: 4-year doctoral program, Doctor of Optometry degree, transcripts sent from the school

Exam fee: Part 1,2 and 3 of the NBEO exam and TMOD- \$4,725

Application Fee: \$300, renewal is \$144 (Please note application fees are addressed in IAC 645-5.12)

In comparison Nebraska requirements are below:

Nebraska Optometrist Initial Licensure Requirements:

Education: Clinical doctorate through board approved school of optometry, transcripts sent from the school

Application Fee: \$166, renewal \$166

Fingerprints: \$45.25 paid to Nebraska State Patrol

Examination: Part 1,2 and 3 of the NBEO exam and TMOD- \$4,725

In comparison, Minnesota requirements are below:

Education: Transcripts sent straight from the school verifying clinical doctorate from a board-approved school or college of optometry

Total initial licensure including fingerprint background check: \$283.25, renewal \$200
Examination: Part 1,2 and 3 of the NBEO exam and TMOD- \$4,725, state exam \$25

None of the three mentioned states have a School of Optometry. Less than half of the states have one. The average cost for a licensee to earn their degree is \$42,000 to \$74, 800 for residents and \$89,600 to \$173,600 for non-residents.

Iowa's initial licensure application process is very similar to those implemented by other state boards of optometrists.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the licensing and Regulation Fund established in SF 557. It takes roughly .20 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to the licensure of optometrists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans in that scenario. In addition, the rule provides consistency related to the licensure of optometrists in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

180.1: Removed redundant and obsolete language from the definitions

180.2: Removed redundant language, replaced restrictive terms with less restrictive alternatives

180.3: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

180.5: Removed redundant language, replaced restrictive terms with less restrictive alternatives

180.11: Removed redundant language, replaced restrictive terms with less restrictive alternatives

180.12: Removed redundant and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

180.4: Reserved chapter

180.6-180.10: Reserved chapter

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

OPTOMETRISTS

CHAPTER 180 LICENSURE OF OPTOMETRISTS

CHAPTER 181 CONTINUING EDUCATION FOR OPTOMETRISTS

CHAPTER 182 PRACTICE OF OPTOMETRISTS

CHAPTER 183 DISCIPLINE FOR OPTOMETRISTS

CHAPTER 180 LICENSURE OF
OPTOMETRISTS

645—180.1(154) Definitions. For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of optometry.

“*CELMO*” means the Council on Endorsed Licensure Mobility for Optometrists.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice optometry to an applicant who is or has been licensed in another state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of optometrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NBEO*” means the National Board of Examiners in Optometry.

“*Optometrist*” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding Iowa Code section 147.107, may without charge supply any of the above pharmaceuticals to commence

a course of therapy, with the exclusions cited in Iowa Code chapter 154.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—180.5(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions

“*TPA*” means therapeutic pharmaceutical agents.

645—180.2(154) Requirements for licensure.

180.2(1) The following criteria applies to licensure:

- a. Submit a completed online application and pay the non-refundable licensure fee specified in 645-subrule 5.12.
- b. Applicants will submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154 including official copies of academic transcripts sent directly to the board from an accredited school or college of optometry.
- c. Applicants will submit proof of passing all current NBEO examinations.
- d. An applicant who has been license in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:
 - (1) Licensee’s name;
 - (2) Date of initial licensure;
 - (3) Current licensure status; and
 - (4) Any disciplinary action taken against the license.

645—180.3(154) Licensure by endorsement.

180.3(1) Applicants who have been licensed as an optometrist in another state may apply for licensure by endorsement by submitting the following:

- a. Verification the applicant meets the requirements of 645-180.2 and
- b. Verification of current competence to practice as an optometrist by satisfying one of the following criteria:
 - (1) Current CELMO certification; or
 - (2) Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;or
 - (3) Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period; or
 - (4) Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
 - (5) Passing the NBEO examination during the preceding two-year period.

180.3(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—180.4(154) License renewal.

180.4(1) The biennial license renewal period for a license to practice optometry will begin on July 1 of an even-numbered year and end on June 30 two years later. The licensee is responsible for renewing the license prior to its expiration.

180.4(2) An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

180.4(3) A licensee applying for renewal will:

- a. Meet the continuing education requirements of rule 645—181.2(154) and the mandatory reporting requirements of subrule 180.5(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.

180.4(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of their professional practice will complete the applicable department of health and human services’ training relating to the identification reporting of child abuse and/or dependent adult abuse. Written documentation of training completion should

be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs 180.5(4) “a” to “b.”

180.4(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

180.4(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

180.4(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.12(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

180.4(8) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

645—180.5(17A,147,272C) License reactivation. To apply for reactivation of an inactive license:

180.5(1) Submit a completed online reactivation application and payment of the non-refundable application fee.

180.5(2) If licensed in another jurisdiction, provide verification from the jurisdiction in which the licensee has most recently been licensed showing the licensee’s name, date of initial licensure, current licensure status, and any disciplinary action taken against the license.

180.5(3) Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

- a. Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;
- or
- b. Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period; or
- c. Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- d. Passing the NBEO examination during the preceding two-year period.

645—180.6(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as an optometrist in this state.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	682
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/10/23	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 181	Iowa Code Section Authorizing Rule:	154, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for optometrists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that optometrists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that optometrists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced by the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There are no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be around \$30-70 per hour or \$1,500-3,500 every two years for a licensee to meet these requirements. Conferences are a continuing education option which may cost significantly more when travel expenses are added. Online or distance learning continuing education will be cheaper. There are multiple entities which provide continuing education courses to licensees and licensees can select which option they prefer based on cost or modality.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the

work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states do successfully manage continuing education programs with fewer hours required per renewal cycle. Iowa requires 50 hours of continuing education every two years. A review of surrounding states indicates that Illinois requires 30 hours, Missouri requires 32, Minnesota requires 40, Nebraska requires 44, South Dakota requires 45 and Kansas requires 48. After discussion with board representatives regarding this topic, they did not recommend a change in continuing education hours. Representatives reported they want to be the leaders, not followers in cutting edge technology and techniques. Having more hours required (vs surrounding states) allows them to continue to uphold a higher standard of care for the public.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 181.1 Removed redundant and obsolete language from the definitions, added necessary definitions
- 181.2 Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 181.3 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

181.4-181.11- previously rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 181
CONTINUING EDUCATION FOR OPTOMETRISTS

645—181.1(154) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of optometry.

“*CELMO*” means the Council on Endorsed Licensure Mobility for Optometrists.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Distance Learning*” means a format that provides one way content to the licensee without immediate interaction with the instructor including but not limited to correspondence courses, online courses and local study group programs.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*Interactive Online CE*” means the format allows for immediate interaction and feedback between the audience and the instructor.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

645—181.2(154) Continuing education requirements.

181.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as an optometrist in this state will be required to complete a minimum of 50 hours of continuing education approved by the board. Continuing education hours cannot be carried over to the next biennium.

181.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

181.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

181.2(4) The licensee is responsible for the cost of continuing education.

645—181.3(154,272C) Standards.

181.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Is an organized program of learning fundamental to the practice of the profession which contributes directly to the professional competency of the licensee;

b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

c. Fulfills stated program goals, objectives, or both; and

d. Provides proof of attendance including:

(1) Date, location, course title, presenter(s);

(2) Numbers of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

181.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by attending:

(1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, all state optometric associations, and any accredited department of ophthalmology;

(2) Postgraduate study through an accredited school or college of optometry;

(3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE) committee; or

b. The maximum number of hours in each category in each biennium is as follows:

(1) Five hours of credit for Distance Learning

(2) Fifteen hours of credit for Interactive Online CE

(3) Twenty hours of credit for postgraduate study courses as referenced in 181.3(2)a.(2).

c. Required continuing education hours. Licensees shall provide proof of continuing education in all of the following areas:

(1) Current certification in CPR offered in person by the American Heart Association, the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours.

(2) Training on child abuse and dependent adult abuse identification and reporting through the Department of Human Services for all licensees who examine, attend, counsel or treat children or dependent adults in the scope of the professional practice. Initial two-hour course taken with six months of employment. One-hour re-certification training every three years.

(3) A minimum of one hour of continuing education per renewal period regarding guidelines for prescribing opioids, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options. Credit will be granted for up to two hours per renewal period. If the continuing education did not cover the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, the licensee shall read the guideline prior to license renewal. "Opioid" means any drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

d. Current CELMO certification meets the continuing education requirements for licensees.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	1461-907=554
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 182	Iowa Code Section Authorizing Rule:	154, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with definitions relevant to the practice of optometry as well as requirements for record keeping, furnishing contact lens and spectacle lens prescriptions, prescription drug orders and requirements for the use of injectables including education and training. This rule articulates practice standards and provides a scope pf practice for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are often costs associated with practice standards, as there is often time, effort and money associated with compliance as is true for any service oriented industry. Members of the public would have costs associated with the services they are seeking to receive, which may include an office visit payment or co-payment. Record keeping requires staff time and technology. Each licensees practice has different variables, things such as number of clients seen, nature of services provided, how services are delivered, i.e. telehealth or in person, administrative support, etc. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes oversight of practice standards. The time needed to manage this provision is generally in the form of responding to questions related to practice standards. An executive officer supports the work of this board at approximately 0.20 of an FTE. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

This is a small profession. There are approximately 720 licensed individuals who provide these services to lowans. There are very few complaints submitted to this Board. In 2022 there were a total of five complaints submitted and the board issued no public discipline. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing this important service to

Iowans. If this profession were not regulated it could mean that lower skilled individuals would provide this service to Iowans, which would be of concern to the Board. Optometry is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current process. Optometry is a medical profession that provides healthcare to Iowans. Optometrists utilize injectables and prescribe opioids, requiring ongoing monitoring for compliance and meeting practice standards. Optometrists require licensure in all states.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 182.2 Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives
- 182.3 Replaced restrictive terms with less restrictive alternatives, provided clarifying information regarding prescriptions
- 182.4 Replaced restrictive terms with less restrictive alternatives
- 182.5 Removed redundant and obsolete language
- 182.6 Replaced restrictive terms with less restrictive alternatives
- 182.7 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 182
PRACTICE OF OPTOMETRISTS

645—182.1(154) Code of ethics. The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, modified June 2007.

645—182.2(154,272C) Record keeping. Optometrists will maintain patient records in a manner consistent with the protection of the welfare of the patient. Records will be permanent, timely, accurate, legible, and easily understandable.

182.2(1) Optometrists will maintain optometry records for each patient. The records will contain all of the following:

a. Personal data.

- (1) Name, date of birth, address and, if a minor, name of parent or guardian; and
- (2) Name and telephone number of emergency contact.

b. Optometry and medical history. Optometry records will include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information will include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. Optometric records will include the patient's stated visual health care reasons for visiting the optometrist.

d. Clinical examination progress notes. Optometric records will include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All ancillary testing, if applicable;
- (5) Vision tests completed and visual acuity;
- (6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient's optometric health.

e. Informed consent. Optometric records will include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

182.2(2) Retention of records. An optometrist will maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors will be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.

Proper safeguards will be maintained to ensure the safety of records from destructive elements.

182.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist will keep either a duplicate hard-copy record or a back-up unalterable electronic record.

182.2(4) Correction of records. Notations will be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

182.2(5) Confidentiality and transfer of records. Optometrists will preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient's new optometrist, the optometrist will furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).

182.2(6) Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, will notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and will encourage patients to seek the services of another licensee. The licensee will make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared

for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

182.2(7) Nothing stated in these rules will prohibit a licensee from conveying or transferring the licensee's patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

645—182.3(154) Furnishing prescriptions. Before a licensed optometrist provides a spectacle or contact lens prescription to a patient, the eye examination record will include best-corrected visual acuity with ophthalmic lenses or contact lenses in the lens powers determined by refraction. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

182.3(1) A contact lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of patient for whom the contact lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner;
- d. All parameters required to duplicate properly the original contact lens;
- e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and
- f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

182.3(2) Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner will provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens. A licensed optometrist may refuse to provide a copy of the contact lens prescription if the patient has not paid the fees associated with the exam from which the prescription was generated including applicable contact lens fitting fees.

b. A practitioner choosing to issue an oral prescription will furnish the same information required for the written prescription except for the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 154 or 155A.

c. The issuing of an oral prescription will be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

182.3(3) An ophthalmic spectacle lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of the patient for whom the ophthalmic lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner issuing the prescription;
- d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and
- e. A specific date of expiration not to exceed two years.
- f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

182.3(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription will be furnished upon request at no additional charge to the patient. A licensed optometrist may refuse to provide a copy of the ophthalmic lens prescription if the patient has not paid the fees associated with the exam from which the prescription was generated

b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

c. Spectacle lens prescriptions will be in written format, according to Iowa Code section 147.109(1).

645—182.4(155A) Prescription drug orders. Each prescription drug order furnished by an optometrist in this state will meet the following requirements:

182.4(1) Written prescription drug orders will contain:

- a. The date of issuance;
- b. The name and date of birth of the patient for whom the drug is dispensed;
- c. The name, strength, and quantity of the drug, medicine, or device prescribed;
- d. The directions for use of the drug, medicine, or device prescribed;

- e. The name, address, and written signature of the practitioner issuing the prescription; and
- f. The federal drug enforcement administration number, if required under Iowa Code chapter 124.

182.4(2) The practitioner issuing oral prescription drug orders will furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

182.4(3) Prior to prescribing any controlled substance, an optometrist will review the patient’s information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility care.

182.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code sections 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

645—182.5(154) Use of injectables. A licensed optometrist shall not administer any injection prior to receiving approval from the board. A licensed optometrist may administer only the following injections:

182.5(1) Subconjunctival injections for the medical treatment of the eye.

182.5(2) Intralesional injections for the treatment of chalazia.

182.5(3) Botulinum toxin to the muscles of facial expression innervated by the facial nerve, including for cosmetic purposes.

182.5(4) Injections to counteract an anaphylactic reaction.

182.5(5) Local anesthetics prior to a minor surgical procedure authorized by this chapter.

645—182.6(154) Education and training approval.

182.6(1) The board will not approve the use of injections other than to counteract an anaphylactic reaction unless the licensed optometrist demonstrates to the board sufficient educational or clinical training from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council for Higher Education Accreditation or by the United States Department of Education, or clinical training equivalent to clinical training offered by such an institution.

182.6(2) A licensed optometrist who completes the requirements of rule 645—182.7(154) is deemed approved by the board for use of injectables as outlined in this chapter.

645—182.7(154) Education and training. In order to use injections, a licensed optometrist will be able to show proof of completion of the following requirements for board approval:

182.7(1) Be fully licensed and in good standing within the state of Iowa as a licensed optometrist.

182.7(2) Have completed a total of 24 hours of approved educational training pertaining to injections.

a. At least 4 hours of the 24 hours must be clinical training.

b. At least 5 hours of the 24 hours must pertain to the administration and side effects of injection treatment for botulinum toxin and chalazia.

These rules are intended to implement Iowa Code chapters 154 and 155A.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1903-1804= 99
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	35

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?



Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 183	Iowa Code Section Authorizing Rule:	154, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for optometrists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the optometry profession and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in this rule was required by House File 2377, which was an act related to the regulation of certain substances. This bill required applicable licensing boards to write rules establishing penalties prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

Is the benefit being achieved? Please provide evidence.

The Optometry Board receives a low number of complaints and rarely issues discipline. In 2022 the Board received five complaints and the board issued no public discipline. Optometry is a very small profession at approximately 720 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, optometry is a form of medicine that is technical in nature and requires a high level of skill, so the Board believes that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care in medical journals, etc. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are

capped at \$1,000 per incidence, with a maximum of \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practice of optometry is a form of medicine that requires skill and precision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

183.2 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

183.1 removed duplicative/unnecessary definitions
183.3 removed duplicative language found in 645 Chapter 13
183.4 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 183
DISCIPLINE FOR OPTOMETRISTS

645—183.2(154,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—183.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645.13:

183.2(1) Prescribing any controlled substance in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1471
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/30/2023	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 200	Iowa Code Section Authorizing Rule:	17A, 147, 148A and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to set minimum standards of entry into the professions of physical therapist and physical therapist assistant.

Iowa residents, licensees and employers benefit from the rule as it clarifies the processes by which licensees may apply for licensure as physical therapists and physical therapist assistants, as directed in statute.

The rule publicly illustrates the process that will be used to license physical therapists and physical therapist assistants, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The rule describes the application process, educational qualifications, and exam requirements. The rule also describes allowed delegation by a supervising physical therapist.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement, establishing a clear process for the licensing process and ensuring only qualified individuals are permitted to enter the profession.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the required education and licensure costs to become an Iowa licensed physical therapists and physical therapist assistant:

Estimation of the cost of education and other licensure requirements, to become an **Iowa licensed physical therapist or physical therapist assistant** are:

Education: Graduate from a physical therapy program accredited by a national accreditation agency approved by the board [Tuition \$61,975 - \$123,685]

NPTE Exam Fee: \$485 [Physical Therapist • Physical Therapist Assistants]

Application 2-year License Fee: \$175 *(Includes \$120 application for initial licensure, one time fee of \$55 FBI and State criminal background check)* (Please note application fees are addressed in IAC 645-5.13 and 5.14)

Biannual Renewal Fee: \$60

Estimation of the cost of education and other licensure requirements, to become a Minnesota **licensed**

physical therapist or physical therapist assistant are:

Education: Graduate from a physical therapy program accredited by a national accreditation agency approved by the board

NPTE Exam Fee: \$485 [Physical Therapist • Physical Therapist Assistants]

Application 1-Year License Fee: \$243.25 *(Includes \$100 application fee, \$60 Annual License, \$50 Exam Fee per attempt, and one time fee of \$33.25 FBI criminal background check)*

Annual Renewal Fee: \$60

Retrieved from the [Minnesota Board of Physical Therapy](#)

Estimation of the cost of education and other licensure requirements, to become a **Nebraska licensed physical therapist or physical therapist assistant are:**

Education: Graduate from a physical therapy program accredited by a national accreditation agency approved by the board

NPTE Exam Fee: \$485 [Physical Therapist • Physical Therapist Assistants]

Application 2-year License Fee: \$178.25 PT • \$135.25 PTA *(Includes PT: \$133 application for initial licensure, PTA \$90 application for initial licensure, and PT & PTA \$45.25 FBI criminal background check)*

Retrieved from the [Nebraska Department of Health and Human Services](#)

The application process is similar to those implemented by other state boards of physical therapy and Iowa is a Physical Therapy Compact member state.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This includes reviews at the time of initial application and during reinstatement. Compliance audits are performed randomly on renewed licenses. Licensees are selected at random by the licensing software algorithm to complete an annual compliance review per board, sending out letters/emails and evaluating the documentation provided. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement. Licensure by consent agreements and discipline imposed by the board are monitored by office staff.

This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review prior to initial licensure and periodic compliance audits and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for licensure review and compliance audits. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced

or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

In addition, the rule provides consistency related to the licensure of physical therapists and physical therapist assistants across the United States and membership in the Physical Therapy Compact requires the uniform licensure of these providers.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

200.1: Amended the following definitions by removing redundant or obsolete language or incorporated by referral to statute: “Mandatory reporter training” “Physical Therapy”, “Reciprocal License” “Reinstatement”

200.1: Amended the following definitions by adding the term “Endorsement”.

200.2: Amended by removing redundant or obsolete language and reordering the sub-rules.

200.4: Removed restrictive language.

200.7: Renumbered and amended to add “health and ” removed restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

200.6 was moved to the practice chapter 201

200.8 was reserved.

200.10 - 200.14 Reserved

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 200
LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

645—200.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Assistive personnel” means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

“Board” means the board of physical and occupational therapy.

“Department” means the department of public health.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Impairment*” means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

“*Mandatory reporter training*” means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code section 323.69 and Iowa Code section 235B.16. “*On site*” means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“*Physical therapist*” means a person licensed under this chapter to practice physical therapy.

“*Physical therapist assistant*” means a person licensed under this chapter to assist in the practice of physical therapy.

“*Physical therapy*” means the same as defined within Iowa Code 148A.1. “*PT*” means physical therapist.

“*PTA*” means physical therapist assistant.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—200.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

645—200.2(147) Initial licensure.

200.2(1) *Requirements for licensure.* The applicant shall:

- (a) Submit a complete online application and pay the nonrefundable fee specified in 645-subrule 5.13.

200.2(2) If the application is not completed according to the instructions, the application will not be reviewed by the board.

200.2(4) Submit official copies of academic transcripts directly from the school to the board of physical and occupational therapy. An applicant shall demonstrate successful completion of a physical therapy education program accredited by a national accreditation agency approved by the board. No application will be considered by the board until official copies of academic transcripts have been received.

200.2(5) Submit a completed fingerprint card and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

200.2(6) Have the testing service send the examination score directly to the board.

200.2(7) Provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

200.2 (8) A physical therapist or physical therapist assistant applicant who holds a license in another state shall have:

- a. Completed board-approved continuing education during the immediately preceding two-year period: 40 hours required for the physical therapist license holder and 20 hours required for a physical therapist assistant license holder; or
- b. Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or
- c. Served the equivalent of one year as a full-time faculty member teaching in an accredited school of physical therapy for at least one of the immediately preceding two years; or
- d. Successfully passed the examination within a period of two years from the date of examination to the time application

is completed for licensure.

200.2(9) Submitting complete application materials. An application for a physical therapist or physical therapist assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

200.2(10) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—200.3(147) Physical therapy compact. The rules of the physical therapy compact commission are incorporated by reference. A physical therapist or physical therapist assistant may engage in the practice of physical therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the physical therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. A physical therapist or physical therapist assistant who practices physical therapy in Iowa using a compact privilege is subject to the rules governing licensees in rule 645—200.6(147) and in 645—Chapters 201 and 202. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; 2018 Iowa Acts, House File 2425; and the rules in 645—Chapters 9, 11, 12, and 13.

645—200.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

200.4(1) Evidence of having passed the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

200.4(2) The applicant shall abide by the following criteria:

a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.

b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

200.4(3) The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

200.4(4) Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation. The applicant must submit appropriate documentation to FSBPT.

645—200.5(147) Educational qualifications.

200.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

200.5(2) Foreign-trained applicants.

a. Foreign-trained applicants who do not hold a license in another state or U.S. territory shall:

(1) Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; website www.fccpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant who does not hold a license in another state or territory of the United States and is applying for licensure by taking the examination should be evaluated using the most current version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT). The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

(2) Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language Internet-based test (TOEFL iBT test) a total score of at least 89 on the TOEFL iBT test as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading; and 18 in listening. This test is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL iBT test. Applicants may be exempt from the TOEFL iBT test when physical therapy education was completed in a school where the language of instruction in physical therapy was English, the language of the textbooks was English, and the applicant's transcript was in English.

b. Foreign-trained applicants who hold a license in another state or U.S. territory may apply for licensure by endorsement.

645—200.6(147) Delegation by a supervising physical therapist. A supervising physical therapist may delegate the performance of physical therapy services to a physical therapist assistant only if done in accordance with the statutes and rules governing the practice of physical therapy. A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist. The supervisory requirements stated in this rule are minimal. It is the professional responsibility and duty of the supervising physical therapist to provide the physical therapist assistant with more supervision if deemed necessary in the supervising physical therapist's professional judgment.

200.6(1) Supervision requirements. A supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant shall provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist shall be readily available on site or telephonically anytime the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction.

200.6(2) Functions that cannot be delegated. The following are functions that only a physical therapist may provide and that cannot be delegated to a physical therapist assistant:

- a. Interpretation of referrals;
- b. Initial physical therapy evaluation and reevaluations;
- c. Identification, determination, or modification of patient problems, goals, and plans of care;
- d. Final discharge evaluation and establishment of a discharge plan;
- e. Delegation of and instruction in the physical therapy services to be rendered by a physical therapist assistant or unlicensed assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- f. Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated.

200.6(3) Physical therapist responsibilities. At all times, the supervising physical therapist shall be responsible for the physical therapy plan of care and for all physical therapy services provided, including all physical therapy services delegated to a physical therapist assistant. In addition, the supervising physical therapist shall:

- a. Be responsible for the evaluation and development of a plan of care for use by the physical therapist assistant; and
- b. Not delegate a physical therapy service that exceeds the competency or skill set of the physical therapist assistant; and
- c. Ensure that a physical therapist assistant holds an active physical therapist assistant license issued by the board or a compact privilege; and
- d. Ensure that a physical therapist assistant is aware of how the supervising physical therapist can be contacted telephonically or by virtual means when the physical therapist is not providing on-site supervision; and
- e. Arrange for an alternate physical therapist to provide supervision when the physical therapist has scheduled or unscheduled absences during time periods in which a physical therapist assistant will be providing delegated physical therapy services; and
- f. Ensure that a physical therapist assistant is informed when a patient's plan of care is transferred to a different supervising physical therapist; and
- g. Directly participate in physical therapy services upon the physical therapist assistant's request for a reexamination, when a change in the plan of care is needed, prior to any planned discharge, and in response to a change in the patient's medical status; and
- h. Hold regularly scheduled meetings with the physical therapist assistant to evaluate the physical therapist assistant's performance, assess the progress of a patient, and make changes to the plan of care as needed. The frequency of meetings should be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant, and any planned discharge. The supervising physical therapist shall provide direction and instruction to the physical therapist assistant that are adequate to ensure the safety and welfare of the patient.

200.6(4) Physical therapist assistant responsibilities. A physical therapist assistant shall only provide physical therapy services under the supervision of a physical therapist. In addition, the physical therapist assistant shall:

- a. Only provide physical therapy services that have been delegated by the supervising physical therapist; and
- b. Only provide physical therapy services that are within the competency and skill set of the physical therapist assistant; and
- c. Consult the supervising physical therapist if the physical therapist assistant believes that any procedure is not in the best interest of the patient; and
- d. Contact the supervising physical therapist regarding any change or lack of change in a patient's condition that may require assessment by the supervising physical therapist; and
- e. Refer inquiries that require interpretation to the supervising physical therapist; and
- f. Ensure that the identification of the supervising physical therapist is included in the documentation for any visit when physical therapy services were provided by the physical therapist assistant; and
- g. Only sign a treatment record if the provision of physical therapy services was done in accordance with the statutes and rules governing the practice of a physical therapist assistant.

200.6(5) Ratio. A physical therapist shall determine the number of physical therapist assistants who can be supervised safely and competently and shall not exceed that number; but in no case shall a physical therapist supervise more than four physical therapist assistants per calendar day. A physical therapist assistant who performs any delegated physical therapy services on behalf of the supervising physical therapist on a particular day shall be counted in determining the maximum ratio, regardless of the location of the physical therapist assistant or the number of patients treated.

200.6(6) Minimum frequency of direct participation by a supervising physical therapist. A supervising physical therapist shall use professional judgment to determine how frequently the physical therapist needs to directly participate in physical therapy services when delegating to a physical therapist assistant, the frequency of which shall be based on the needs of the patient. Direct participation can occur through an in-person or telehealth visit. The supervising physical therapist shall ensure that the patient record clearly indicates which visits included direct participation by the supervising physical therapist. The following are the minimum standards, which are expected to be exceeded when dictated by the supervising physical therapist's professional judgment, for the required frequency of direct participation by the supervising physical therapist when physical therapy services involve delegation to a physical therapist assistant:

- a. *Hospital inpatient and skilled nursing.* For hospital inpatients and skilled nursing patients, a supervising physical therapist must directly participate in physical therapy services a minimum of once per calendar week. A calendar week is defined as Sunday through Saturday.
- b. *All other settings.* In all other settings, a supervising physical therapist must directly participate in the provision of physical therapy services at least every eighth visit or every 30 calendar days, whichever comes first.

200.6(7) Unlicensed assistive personnel. A physical therapist is responsible for patient care provided by unlicensed assistive personnel under the physical therapist's supervision. A physical therapist is responsible for ensuring the qualifications of any unlicensed assistive personnel and shall maintain written documentation of their education or training. Unlicensed assistive personnel may assist a physical therapist assistant in the delivery of physical therapy services only if the physical therapist assistant maintains in-sight supervision of the unlicensed assistive personnel and the physical therapist assistant is primarily and significantly involved in the patient's care. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The physical therapist has direct participation in the patient's treatment or evaluation, or both, each treatment day;
- b. Unlicensed assistive personnel may provide independent patient care only while under the on-site supervision of the physical therapist;
- c. Documentation made in a physical therapy record by unlicensed assistive personnel shall be cosigned by the physical therapist; and
- d. The physical therapist provides periodic reevaluation of any unlicensed assistive personnel's performance in relation to the patient.

645—200.7(147) License renewal.

200.7(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

200.7(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

200.7(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing

education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

200.7(4) Mandatory reporter training requirements.

a. A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

b. A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

200.7(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

200.7(6) Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

200.7(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

200.7(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—200.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

200.8(1) Submit a reactivation application on a form provided by the board.

200.8(2) Pay the reactivation fee that is due as specified in 645—subrule 5.13(5).

200.8(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;

2. Date of initial licensure;

3. Current licensure status; and

4. Any disciplinary action taken against the license; and

(2) Verification of completion of 20 hours of continuing education for a physical therapy assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education for a physical therapy assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—200.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—200.15(17A,147,272C) prior to practicing physical therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	1238
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/30/23	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 201	Iowa Code Section Authorizing Rule:	148A, 272C, 147, 17A
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides Iowans, licensees, and their employers with practice guidance and requirements for physical therapists and physical therapist assistants.

The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include record keeping, ethical practice standards, and telehealth visits.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as licensees are able to gather specific information regarding requirements surrounding code of ethics, record keeping, and telehealth appointments.

What are the costs incurred by the public to comply with the rule?

No direct costs to the public. Licensees will be responsible for the costs associated with meeting these practice requirements. There are often costs associated with licensee compliance with the practice standards outlined in this rule. Members of the public would have costs associated with the services they are seeking to receive. Each licensee’s practice has different variables; things such as number of clients seen, nature of services provided, how services are delivered (i.e., telehealth or in person), administrative support, etc. The Board does not have a mechanism for estimating what these total costs might be to the public or to the licensee for compliance with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, including the code of ethics, record keeping, telehealth and delegation of supervision as well as related education requirements, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review prior to initial licensure and periodic compliance audits

and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for compliance audits. Existing staff within the agency perform the compliance audits, and the internal time commitment isn't such that outsourcing either task would result in the elimination of agency staff – outsourcing would only lead to additional costs borne by an external service provider.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

201.1 Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives.

201.1(3) Removed and consolidated duplicative language that applies to both physical therapists and physical therapist assistants.

201.4 Added delegation and supervision language that was previously in licensure chapter 200.

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 201
PRACTICE OF PHYSICAL THERAPISTS AND PHYSICAL
THERAPIST ASSISTANTS

645—201.1 (148A,272C) Code of ethics for physical therapists and physical therapist assistants.

201.1(1) Physical therapy. The practice of physical therapy shall minimally consist of:

- a. Interpreting all referrals;
- b. Evaluating each patient;
- c. Identifying and documenting individual patient's problems and goals;

- d.* Establishing and documenting a plan of care;
- e.* Providing appropriate treatment;
- f.* Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g.* Appropriately supervising individuals as described in rule 645—200.6(272C);
- h.* Providing timely patient reevaluation;
- i.* Maintaining timely and adequate patient records of all physical therapy activity and patient responses consistent with the standards found in rule 645—201.2(147).

201.1(2) A physical therapist shall:

- a.* Not practice outside the scope of the license;
- b.* Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;
- c.* Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d.* Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e.* Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services;
- f.* Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

- (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
- (2) Reporting charges for services not rendered;
- (3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist owns stock or has any other direct or indirect financial interest;

h. Not permit another person to use the therapist's license for any purpose;

i. Not verbally or physically abuse a patient or client;

j. Not engage in sexual misconduct. Sexual misconduct includes the following:

- (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
- (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

k. Adequately supervise personnel in accordance with the standards for supervision found in rule 645—200.6(272C);

l. Assist in identifying a professionally qualified licensed practitioner to perform the service, in the event that the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment.

201.1(3) Physical therapist assistants. A physical therapist assistant shall:

- a.* Not practice outside the scope of the license;
- b.* Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

- (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
- (2) Reporting charges for services not rendered;
- (3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

c. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist assistant owns stock or has any other direct or indirect financial interest;

d. Not permit another person to use the physical therapist's or physical therapist assistant's license for any purpose;

e. Not verbally or physically abuse a patient or client;

f. Not engage in sexual misconduct. Sexual misconduct includes the following:

- (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client; and
- (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual

nature with a patient or client;

g. Work only when supervised by a physical therapist and in accordance with rule 645—200.6(272C). If the available supervision does not meet the standards in rule 645—200.6(272C), the physical therapist assistant shall refuse to administer treatment;

h. Inform the delegating physical therapist when the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, and refuse to perform the delegated tasks;

i. Sign the physical therapy treatment record to indicate that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

645—201.2 (147) Record keeping.

201.2(1) A licensee shall maintain sufficient, timely, and accurate documentation in patient records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

201.2(2) A licensee who provides clinical services shall store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all patient records for a minimum of five years after the date of the patient's discharge, or, in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

201.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

201.2(4) Correction of records.

a. *Hard-copy records.* Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

201.2(5) Confidentiality and transfer of records. Physical therapists and physical therapist assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such physical therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

201.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

201.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

645—201.3(147) Telehealth visits. A licensee may provide physical therapy services to a patient utilizing a telehealth visit if the physical therapy services are provided in accordance with all requirements of this chapter.

201.3(1) "Telehealth visit" means the provision of physical therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the physical therapy session.

201.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a physical therapy session or to communicate with a patient between physical therapy sessions.

201.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person physical therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular physical therapy services cannot be met using technology.

201.3(4) Any physical therapist or physical therapist assistant who provides a physical therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa or have a compact privilege issued by the physical therapy compact commission.

201.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the physical therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide physical therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

201.3(6) A licensee shall only provide physical therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

201.3(7) A licensee shall identify in the clinical record when physical therapy services are provided utilizing a telehealth visit.

645—201.4(147) Delegation by a supervising physical therapist. A supervising physical therapist may delegate the performance of physical therapy services to a physical therapist assistant only if done in accordance with the statutes and rules governing the practice of physical therapy. A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist. The supervisory requirements stated in this rule are minimal. It is the professional responsibility and duty of the supervising physical therapist to provide the physical therapist assistant with more supervision if deemed necessary in the supervising physical therapist's professional judgment.

201.4(1) Supervision requirements. A supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant shall provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist shall be readily available on site or telephonically anytime the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction.

201.4(2) Functions that cannot be delegated. The following are functions that only a physical therapist may provide and that cannot be delegated to a physical therapist assistant:

- a. Interpretation of referrals;
- b. Initial physical therapy evaluation and reevaluations;
- c. Identification, determination, or modification of patient problems, goals, and plans of care;
- d. Final discharge evaluation and establishment of a discharge plan;
- e. Delegation of and instruction in the physical therapy services to be rendered by a physical therapist assistant or unlicensed assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- f. Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated.

201.4(3) Physical therapist responsibilities. At all times, the supervising physical therapist shall be responsible for the physical therapy plan of care and for all physical therapy services provided, including all physical therapy services delegated to a physical therapist assistant. In addition, the supervising physical therapist shall:

- a. Be responsible for the evaluation and development of a plan of care for use by the physical therapist assistant; and
- b. Not delegate a physical therapy service that exceeds the competency or skill set of the physical therapist assistant; and
- c. Ensure that a physical therapist assistant holds an active physical therapist assistant license issued by the board or a compact privilege; and
- d. Ensure that a physical therapist assistant is aware of how the supervising physical therapist can be contacted telephonically or by virtual means when the physical therapist is not providing on-site supervision; and
- e. Arrange for an alternate physical therapist to provide supervision when the physical therapist has scheduled or unscheduled absences during time periods in which a physical therapist assistant will be providing delegated physical therapy services; and
- f. Ensure that a physical therapist assistant is informed when a patient's plan of care is transferred to a different supervising physical therapist; and
- g. Directly participate in physical therapy services upon the physical therapist assistant's request for a reexamination, when a change in the plan of care is needed, prior to any planned discharge, and in response to a change in the patient's medical status; and
- h. Hold regularly scheduled meetings with the physical therapist assistant to evaluate the physical therapist assistant's performance, assess the progress of a patient, and make changes to the plan of care as needed. The frequency of meetings should be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant, and any planned discharge. The supervising physical therapist shall provide direction and instruction to the physical therapist assistant that are adequate to ensure the safety and welfare of the patient.

201.4(4) Physical therapist assistant responsibilities. A physical therapist assistant shall only provide physical therapy services under the supervision of a physical therapist. In addition, the physical therapist assistant shall:

- a. Only provide physical therapy services that have been delegated by the supervising physical therapist; and
- b. Only provide physical therapy services that are within the competency and skill set of the physical therapist assistant; and
- c. Consult the supervising physical therapist if the physical therapist assistant believes that any procedure is not in the

best interest of the patient; and

- d. Contact the supervising physical therapist regarding any change or lack of change in a patient's condition that may require assessment by the supervising physical therapist; and
- e. Refer inquiries that require interpretation to the supervising physical therapist; and
- f. Ensure that the identification of the supervising physical therapist is included in the documentation for any visit when physical therapy services were provided by the physical therapist assistant; and
- g. Only sign a treatment record if the provision of physical therapy services was done in accordance with the statutes and rules governing the practice of a physical therapist assistant.

201.4(5) Ratio. A physical therapist shall determine the number of physical therapist assistants who can be supervised safely and competently and shall not exceed that number; but in no case shall a physical therapist supervise more than four physical therapist assistants per calendar day. A physical therapist assistant who performs any delegated physical therapy services on behalf of the supervising physical therapist on a particular day shall be counted in determining the maximum ratio, regardless of the location of the physical therapist assistant or the number of patients treated.

201.4(6) Minimum frequency of direct participation by a supervising physical therapist. A supervising physical therapist shall use professional judgment to determine how frequently the physical therapist needs to directly participate in physical therapy services when delegating to a physical therapist assistant, the frequency of which shall be based on the needs of the patient. Direct participation can occur through an in-person or telehealth visit. The supervising physical therapist shall ensure that the patient record clearly indicates which visits included direct participation by the supervising physical therapist. The following are the minimum standards, which are expected to be exceeded when dictated by the supervising physical therapist's professional judgment, for the required frequency of direct participation by the supervising physical therapist when physical therapy services involve delegation to a physical therapist assistant:

a. *Hospital inpatient and skilled nursing.* For hospital inpatients and skilled nursing patients, a supervising physical therapist must directly participate in physical therapy services a minimum of once per calendar week. A calendar week is defined as Sunday through Saturday.

b. *All other settings.* In all other settings, a supervising physical therapist must directly participate in the provision of physical therapy services at least every eighth visit or every 30 calendar days, whichever comes first.

201.4(7) Unlicensed assistive personnel. A physical therapist is responsible for patient care provided by unlicensed assistive personnel under the physical therapist's supervision. A physical therapist is responsible for ensuring the qualifications of any unlicensed assistive personnel and shall maintain written documentation of their education or training. Unlicensed assistive personnel may assist a physical therapist assistant in the delivery of physical therapy services only if the physical therapist assistant maintains in-sight supervision of the unlicensed assistive personnel and the physical therapist assistant is primarily and significantly involved in the patient's care. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The physical therapist has direct participation in the patient's treatment or evaluation, or both, each treatment day;
- b. Unlicensed assistive personnel may provide independent patient care only while under the on-site supervision of the physical therapist;
- c. Documentation made in a physical therapy record by unlicensed assistive personnel shall be cosigned by the physical therapist; and
- d. The physical therapist provides periodic reevaluation of any unlicensed assistive personnel's performance in relation to the patient.

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+1334 practice language included that was previously part of the licensure chapter

	200
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	+17 restrictive terms from practice language included that was previously part of the licensure chapter 200

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report
(Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/29/2023	Total Rule Count:	2
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 202	Iowa Code Section Authorizing Rule:	17A, 147, 148A and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the barbering and cosmetology arts and sciences professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Board believes the costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are associated with costs to the licensed professional/establishment.

Licensees may be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fine amounts are not established in rule for these licensees and are determined by the Board.

The Board has statutory authority to impose a civil penalty on individuals practicing without a license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee takes action that is grounds for discipline. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of this work at

0.22 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The amount of complaints received are relatively low, and costs reflect that. The Board believes the costs are justified because inaction could increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current discipline process. There could be a consideration of reducing or eliminating grounds for discipline, but the Board believes these requirements are important in order to protect the public from infection risks.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

The Chapter was renumbered and reordered.

202.1.1: Amended the following definition by adding “pursuant to Iowa Code chapter 148A and 645— Chapters 200 to 203, Iowa Administrative Code”: “Licensee”.

202.2: Amended by adding reference to common chapter 645 IAC 13(272C) and referral to Iowa Code Chapter 147.55, and eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

202.2(1): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.2.(4) - 202.2(11): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.2(13): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.2(15) - 202.2(23): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.2(27) to 202.4: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

RULES PROPOSED FOR REPEAL (list rule number[s]):

202.2(1)

202.2.(4) - 202.2(11)

202.2(13)

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 202
DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

645—202.1(148A) Definitions.

“Board” means the board of physical and occupational therapy.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice pursuant to Iowa Code chapter 148A and 645—Chapters 200 to 203, Iowa Administrative Code in Iowa.

645—202.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645-13(,272C) when the board determines that any of the acts or offenses listed in such rule or in Iowa Code Chapter 147.55 have occurred:

202.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physical therapists or physical therapist assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average physical therapist or physical therapist assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed physical therapist or licensed physical therapist assistant in this state.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

202.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of physical therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

202.2(3) Violation of a regulation, rule or law of this state, another state, or the United States which relates to the practice of physical therapy, including, but not limited to, the code of ethics found in rule 645—201.1(148A,272C).

202.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of physical therapy in another state, district, territory or country.

202.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice physical therapy.

202.2(6) Representing oneself as a licensed physical therapist or physical therapist assistant when one’s license has been suspended or revoked, or when the license is on inactive status.

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1314
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Division of Licensing	Date:	8/26/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 203	Iowa Code Section Authorizing Rule:	17A, 147, 148A and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Iowa residents, service providers, schools, continuing education providers and employers benefit from the rule as it clarifies the processes by which licensees must complete continuing education for renewal and reactivation of licensure as physical therapists and physical therapist assistants, as directed in statute.

The rule publicly illustrates the topics and programs that will keep all service providers current with laws, rules and industry standards.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is achieved, because it requires physical therapists and physical therapist assistant licensees to meet specific continuing education requirements to ensure up-to-date knowledge on practical service related skills.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.203. Licensees may incur costs related to renewal and reactivation licensing fees and continuing education courses which are responsibilities of the licensee.

Iowa requires a physical therapist to complete 40 CEUS every two years and a physical therapist assistant to complete 20 CEUS every two years. The cost to obtain CEU courses are often priced “per course” versus “per contact hour.” An on demand one-hour online course covering a general topic that meets the CEU requirements of a licensure board could be free while in-person, multi-day day courses presented by one or more subject matter experts tend to be more expensive. There are multiple entities which offer continuing education courses to licensees, both online and in-person.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This includes responding to questions from the public and licensees regarding practice standards, continuing education, board meeting administration, etc.

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce or eliminate continuing education requirements. Iowa requires the following hours of continuing education every two years:

- Physical Therapist [PT]: 40 hours
- Physical Therapist Assistant [PTA]: 20 hours

A review of surrounding states indicates that Iowa is in line with surrounding states' requirements for continuing education. Neighboring states require the following:

- Kansas : 40 hours for PT/ 20 hours for PTA every two years
- Illinois: 40 hours for PT/ 20 hours for PTA every two years
- Missouri: 30 PT/30 PTA every two years
- Nebraska: 24 PT/24 PTA every two years
- Minnesota: 20 PT/A every two years
- South Dakota: 15 PT/15 PTA hours annually

Staff held conversations with members of the board inquiring if the board would recommend lowering the continuing education requirements. The Board does not recommend changes at this time, however, they continue to evaluate the total hours, the frequency, and the safety of the public through periodic reviews of evidence based practice and data.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

645-203.1 – Amended the following definitions by removing redundant language which exists in statute and incorporated by referral: “Audit,”“Continuing education”.

645-203.2 – Amended by removing prescriptive requirements for continuing education hours, removed redundant and restrictive language and reordered sub-rules.

645-203.3 – Amended by removing redundant and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 203
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL
THERAPIST ASSISTANTS

645—203.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as the definition in Iowa Code 272C.1-

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

645—203.2(148A) Continuing education requirements.

203.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state will be required to complete a minimum of 40 hours of continuing education approved by the board-

b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state will be required to complete a minimum of 20 hours of continuing education approved by the board-

203.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.

203.2(3) No hours of continuing education shall be carried over into the next biennium except for a new licensee. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

645—203.3(148A,272C) Standards.

203.3(1) General criteria. Appropriate continuing education activity for purposes of license renewal will support each of the following:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

203.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by:

(1) Attending workshops, conferences, or symposiums.

(2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Completing an American Physical Therapy Association-approved postprofessional clinical residency or fellowship. A licensee will receive 1 hour of credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for credit if the licensee is also seeking credit hours earned for postprofessional academic coursework in the same renewal period.

(4) Directly supervising students for clinical education if the students being supervised are from an accredited physical therapist or physical therapist assistant program and are participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for a physical therapist and 4 hours for a physical therapist assistant may be awarded per biennium. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(5) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(6) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of physical therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit
1 academic trimester hour = 12 continuing education hours of credit
1 academic quarter hour = 10 continuing education hours of credit

(7) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit
1 academic trimester hour = 12 continuing education hours of credit
1 academic quarter hour = 10 continuing education hours of credit

(8) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.

(9) Participating in professional organizations related to the practice of physical therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee

member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of physical therapy and therefore must not exceed a maximum combined total of 10 hours of credit for a physical therapist licensee and 5 hours of credit for a physical therapist assistant licensee:

- (1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
- (2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
- (3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	450
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/30/2023	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 206	Iowa Code Section Authorizing Rule:	17A, 147, 148B and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to set minimum standards of entry into the professions of physical therapist and physical therapist assistant.

Iowa residents, licensees and employers benefit from the rule as it clarifies the processes by which licensees may apply for licensure as occupational therapists and occupational therapist assistants, as directed in statute.

The rule publicly illustrates the process that will be used to license occupational therapists and occupational therapist assistants, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The rule describes the application process, educational qualifications, and exam requirements. The rule also describes allowed delegation by a supervising physical therapist.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement, establishing a clear process for the licensing process and ensuring only qualified individuals are permitted to enter the profession.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the required education and licensure costs to become an Iowa licensed physical therapists and physical therapist assistant:

Estimation of the cost of education and other licensure requirements, to become an **Iowa licensed occupational therapist or occupational therapist assistant** are:

Education: OT Graduate of an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association • OTA Graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association

NBCOT Exam Fee: \$515 [Occupational Therapist • Occupational Therapist Assistants]

Application 2-year License Fee: \$120 (Please note application fees are addressed in IAC 645-5.11)

Biannual Renewal Fee: \$60

Estimation of the cost of education and other licensure requirements, to become a Minnesota **licensed occupational therapist or occupational therapist assistant** are:

Education: Graduate from an accredited educational program for occupational therapy

NBCOT Exam Fee: \$515 [Occupational Therapist • Occupational Therapist Assistants]

OT Application 2-Year License Fee: \$218.25 (*Includes \$185 application fee and \$33.25 FBI criminal background check*)

OTA Application 2-Year License Fee: \$138.25 (*Includes \$105 application fee and \$33.25 FBI criminal background check*)

Biannual Renewal Fee: OT \$185 • OTA \$105

Retrieved from the [Minnesota Board of Occupational Therapy](#)

Estimation of the cost of education and other licensure requirements, to become a **Nebraska licensed physical therapist or physical therapist assistant** are:

Education: OT Graduate from an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association • OTA Graduate from an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association

NBCOT Exam Fee: \$515 [Occupational Therapist • Occupational Therapist Assistants]

OT and OTA Application 2-year License Fee: \$135.50 (*Includes \$120 application for initial licensure, \$15.5 FBI criminal background check*)

Retrieved from the [Nebraska Department of Health and Human Services](#)

The application process is similar to those implemented by other state boards of occupational therapy and Iowa is an Occupational Therapy Compact member state.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This includes reviews at the time of initial application and during reinstatement. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review prior to initial licensure and periodic compliance audits and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for licensure review and compliance audits. Existing staff within the agency perform the licensure review and compliance audits, and the internal time commitment isn't such that outsourcing either task would result in the elimination of agency staff – outsourcing would only lead to additional costs borne by an external service provider.

In addition, the rule provides consistency related to the licensure of occupational therapists and occupational therapist assistants across the United States and membership in the Occupational Therapy Compact requires the uniform licensure of these providers.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

206.1: Amended the following definitions by removing redundant or obsolete language or incorporated by referral to statute: "Mandatory reporter training" "Occupational Therapy Practice", "Reciprocal License" "Reinstatement".

206.1: Amended the following definitions by adding the term "Endorsement".

206.2: Amended by removing redundant or obsolete language and reordering the sub-rules.

206.4: Removed restrictive language.

206.5: Relocated to practice chapter 208.

206.8: Relocated to practice chapter 208.

206.9- 200.12: Renumbered and amended to add "health and " removed restrictive language.

206.9: Removed endorsement rules and reordered in rule 206.2

RULES PROPOSED FOR REPEAL (list rule number[s]):

206.4 was rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 206
LICENSURE OF OCCUPATIONAL THERAPISTS AND

OCCUPATIONAL THERAPY ASSISTANTS

645—206.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired. “*Board*” means the board of physical and occupational therapy. “*Department*” means the department of public health.

“*Endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state who has the same or similar qualifications to those required in Iowa.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice occupational therapy to an applicant who is or has been licensed in another state.

“*Licensure examination*” means the examination administered by the National Board for Certification in Occupational Therapy.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code section 232.69 and Iowa Code section 235B.16.

“*NBCOT*” means the National Board for Certification in Occupational Therapy.

“*Occupational therapist*” means a person licensed under this chapter to practice occupational therapy.

“*Occupational therapy assistant*” means a person licensed under this chapter to assist in the practice of occupational therapy.

“*Occupational therapy practice*” means the same as defined within Iowa Code 148B.2.

“*Occupational therapy screening*” means a brief process which is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and which includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual’s caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term

interventions to children prior to an evaluation, not to exceed 16 sessions per concern per school year, in accordance with state and federal educational policy.

“*On site*” means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“*OT*” means occupational therapist.

“*OTA*” means occupational therapy assistant.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—206.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) Once the license is reinstated, the licensee may apply for active status.

645—206.2(147) Initial licensure. The following criteria shall apply to licensure:

206.2(1) Requirements for licensure. The applicant shall submit:

206.2(2) A complete online the application and pay the nonrefundable fee specified in 645-subrule 5.11.

206.2(3) An official copy of academic transcripts directly from the school to the board. No application will be considered by the board until official copies of academic transcripts have been received.

206.2(4) Direct the examination service to submit examination scores directly to the board.

206.2(5) Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if it provides:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

645—206.2(6) An occupational therapist or occupational therapy assistant applicant who holds a license in another state shall have:

- a. Completed board-approved continuing education during the immediately preceding two-year period: 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant, or
- b. Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or
- c. Served the equivalent of one year as a full-time faculty member teaching in an accredited school of physical therapy for at least one of the immediately preceding two years; or
- d. Successfully passing the examination within a period of two years from the date of examination to the time application is completed for licensure.

645—206.3(147) Limited permit to practice pending licensure. A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;
2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;
3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months from the date the application was received in the board office;
4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and
5. If the applicant fails the national examination, the limited permit holder must cease practicing immediately.

645—206.4(147) Examination requirements. The following criteria shall apply to the written examination(s):

206.4(1) The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

206.4(2) The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

645—206.5(147) Educational qualifications.

206.5(1) The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

a. *Occupational therapist.* The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

b. *Occupational therapy assistant.* The applicant for licensure as an occupational therapy assistant shall be a graduate

of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

206.5(2) Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet

NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

645—206.6(147) License renewal.

206.6(1) The biennial license renewal period for a license to practice as an occupational therapist or occupational therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

206.6(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

206.6(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—207.2(272C) and the mandatory reporting requirements of subrule 206.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

206.6(4) Mandatory reporter training requirements.

a. A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

b. A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

206.6(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

206.6(6) Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

206.6(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

206.6(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—206.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

206.7(1) Submit a reactivation application on a form provided by the board.

206.7(2) Pay the reactivation fee that is due as specified in 645—subrule 5.11(5).

206.7(3) Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—206.8(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—206.11(17A,147,272C) prior to practicing occupational therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	2512
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	38

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

**Red Tape Review Rule Report
(Due: September 1, 2023)**

Department Name:	Division of Licensing	Date:	8/30/2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 207	Iowa Code Section Authorizing Rule:	17A, 147, 148A and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for occupational therapists and occupational therapist assistants. Iowa residents, service providers, schools, continuing education providers and employers benefit from the rule as it clarifies the processes by which licensees must complete continuing education for renewal and reactivation of licensure as occupational therapists and occupational therapist assistants, as directed in statute.

The rule publicly illustrates the topics and programs that will keep all service providers current with laws, rules and industry standards. The intended benefit of continuing education is to ensure that these licensees maintain up-to-date practice standards and, as a result, provide high quality services to Iowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is achieved because it requires that occupational therapists and occupational therapist assistants meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to Iowans and potentially reduces the number of complaints, as is evidenced by the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

Costs are not generally incurred by the public related to IAC 645.207. Licensees may incur costs related to renewal and reactivation licensing fees and continuing education courses which are responsibilities of the licensee.

Iowa requires an occupational therapist to complete 30 CEUS every two years and a physical therapist assistant to complete 15 CEUS every two years. The cost to obtain CEU courses are often priced “per course” versus “per contact hour”. An on demand one-hour online course covering a general topic that meets the CEU requirements of a licensure board could be free while in-person, multi-day day courses presented by one or more subject matter experts tend to be more expensive. There are multiple entities which offer continuing education courses to licensees, both online and in-person. NBCOT® Professional Development Provider offers unlimited CEU access for \$99/year. AOTA offers a national conference and members have unlimited access to over 200 CEU’s every year for an additional \$70. AOTA has a position

statement on the benefits of continuing education. Practitioners who maintain credentialing through NBCOT may use the navigator for up to 36 CAU's with some contingent requirements. NBCOT just presented on this service in June 2023. IOTA offers a conference each fall.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This includes responding to questions from the public and licensees regarding practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public that would remain unchecked without review of infection control laws and rules and industry standards as outlined in rule as well as through compliance and complaint investigation.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process. Staff held conversations with members of the board inquiring if the board would recommend lowering the continuing education requirements. The board has considered a change of the total hours, the frequency and the safety of the public. While the board is not inclined at this time to make changes, they will consider evidence based practice and data for future review.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Iowa requires the following hours of continuing education every two years
Occupational Therapist [OT]: 30 hours:
Occupational Therapy Assistant [OTA] : 15 hours.

A review of surrounding states indicates that
Kansas : OT/A 40 hours every two years.
Illinois: OT/A 24 hours every two years.
Missouri: OT/A 24 hours every two years.
Minnesota: OT 24 hours and OTA 18 hours every two years.
Nebraska: OT 20 hours and OTA 15 hours every two years.
South Dakota: OT/A 12 hours annually.

OT/A data retrieved from email survey conducted by NBCOT August 2023.
<https://www.aota.org/-/media/corporate/files/advocacy/licensure/stateregs/contcomp/continuing-competence-chart-summary.pdf>

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed. ¶

¶
645-207.1 – Amended the following definitions by removing redundant language which exists in statute and incorporated by referral: “Audit,” “Continuing education”.

645-207.2 – Amended by removing prescriptive requirements for continuing education hours, removed redundant and restrictive language and reordered sub-rules.

645-207.3 – Amended by removing redundant and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 207
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS AND
OCCUPATIONAL THERAPY ASSISTANTS

645—207.1(148B) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of compliance with continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as the definition in Iowa Code 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

645—207.2(272C) Continuing education requirements.

207.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the licensee’s birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state will have the responsibility to finance the cost and be required to complete a minimum of 30 hours of continuing education approved by the board.

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state will be required to complete a minimum of 15 hours of continuing education approved by the board.

207.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

207.2(3) With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

645—207.3(148B,272C) Standards.

207.3(1) General criteria. Appropriate continuing education activity for purposes of license renewal will support each of the following:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

207.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by:

(1) Attending workshops, conferences, or symposiums.
(2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Directly supervising students for clinical education if the student being supervised is from an accredited occupational therapy or occupational therapy assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for an occupational therapist and 4 hours for an occupational therapy assistant may be awarded per biennium. The occupational therapist or occupational therapy assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(4) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(5) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of occupational therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit
1 academic trimester hour = 12 continuing education hours of credit
1 academic quarter hour = 10 continuing education hours of credit

(6) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit
1 academic trimester hour = 12 continuing education hours of credit
1 academic quarter hour = 10 continuing education hours of credit

(7) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.

(8) Participating in professional organizations related to the practice of occupational therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of occupational therapy and therefore must not exceed a maximum combined total of 8 hours of credit for an occupational therapist licensee and 4 hours of credit for an occupational therapy assistant licensee:

- (1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
- (2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
- (3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	387
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/30/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 208	Iowa Code Section Authorizing Rule:	148B, 272C, 147, 17A
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-6529

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides Iowans, licensees, and their employers with practice guidance and requirements for occupational therapists and occupational therapist assistants. The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include record keeping, ethical practice standards, and telehealth visits.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as licensees are able to gather specific information regarding requirements surrounding code of ethics, record keeping, and telehealth appointments.

What are the costs incurred by the public to comply with the rule?

There are often costs associated with licensee compliance with the practice standards outlined in this rule. Members of the public would have costs associated with the services they are seeking to receive. Each licensee's practice has different variables; things such as number of clients seen, nature of services provided, how services are delivered (i.e., telehealth or in person), administrative support, etc. The Board does not have a mechanism for estimating what these total costs might be to the public or to the licensee for compliance with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities. An executive officer supports the full scope of this work at 0.22 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, including the code of ethics, record keeping, telehealth and delegation of supervision as well as related education requirements, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. The Board received a combined 13 complaints in 2021 and 11 complaints in 2022. The Board initiated 1 public discipline action during that two-year period. The cost of inaction would increase the potential for injury and harm to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation such as registration or certification could be utilized to regulate the profession, however, the Board would have significant concerns with this approach. The professional standards articulated in these rules are consistent with national best practices and recognize the highly-sensitive nature of the services provided by occupational therapists and occupational therapy assistants. Reducing these standards would increase the potential for inappropriate or dangerous practices occurring in Iowa.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

208.1 Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives.

208.1(3) Removed and consolidated duplicative language that applies to both occupational therapists and occupational therapist assistants.

208.4 Added practice of occupational therapy limited permit holder language that was previously in the licensure chapter 206.

208.5 Added delegation and supervision language that was previously in the licensure chapter 206.

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 208
PRACTICE OF OCCUPATIONAL THERAPISTS AND
OCCUPATIONAL THERAPY ASSISTANTS

645—208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants.

208.1(1) Occupational therapy. The practice of occupational therapy minimally consist of:

- a. Interpreting referrals;
- b. Evaluating patients;
- c. Identifying and documenting patient problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Supervising individuals as described in rule 645—208.5(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records consistent with the standards found in rule 645—208.2(147).

208.1(2) An occupational therapist or occupational therapist assistant should:

- a. Not practice outside the scope of the license;
- b. Not perform a treatment procedure that is inadvisable or contraindicated;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services;
- f. Not obtain payment through fraudulent means. Obtaining payment through fraudulent means includes, but is not limited to:
 - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
 - (2) Reporting charges for services not rendered;
 - (3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or
 - (4) Aiding a patient in fraudulently obtaining payment;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the occupational therapist owns stock or has any other direct or indirect financial interest;
- h. Not permit another person to use the therapist's license for any purpose;
- i. Not verbally or physically abuse a patient or client;
- j. Not engage in sexual misconduct. Sexual misconduct includes the following:
 - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
 - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- k. Follow with the standards for supervision found in rule 645—208.4(272C);
- l. Not perform a task or service for which the therapist lacks the skill, knowledge or competence. In such a case, the therapist should either refuse to perform the task or service and/or arrange for a professionally qualified licensed practitioner to perform the task or service.
- m. Sign the occupational therapy treatment record to indicate that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an occupational therapist or occupational therapist assistant.

645—208.2(147) Record keeping.

208.2(1) A licensee should maintain sufficient, timely, and accurate documentation in patient records to reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

208.2(2) A licensee should store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee should store patient records for a minimum of five years after the date of the patient's discharge, or in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

208.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

208.2(4) Correction of records.

a. *Hard-copy records.* Notations should be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum

attached to the record.

208.2(5) Confidentiality and transfer of records. Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records consistent with federal and state law.

208.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

208.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

645—208.3(147) Telehealth visits. A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

208.3(1) "Telehealth visit" means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

208.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

208.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

208.3(4) Any occupational therapist or occupational therapist assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

208.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide occupational therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

208.3(6) A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

208.3(7) A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

645—208.4(147) Practice of occupational therapy limited permit holders.

208.4(1) Occupational therapist limited permit holders may:

- a. Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and
- b. Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

208.4(2) Occupational therapy assistants and limited permit holders shall:

- a. Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and
- b. Perform occupational therapy procedures delegated by the supervising OT as required in subrule **208.5**.

645—208.5(148B) Supervision requirements.

208.5(1) Care rendered by unlicensed assistive personnel shall not be documented or charged as occupational therapy unless direct on-site supervision is provided by an OT or in-sight supervision is provided by an OTA.

208.5(2) Occupational therapist supervisor responsibilities. The supervisor shall:

- a. Provide supervision to a licensed OTA, OT limited permit holder and OTA limited permit holder anytime occupational therapy services are rendered. Supervision may be provided on site or through the use of telecommunication or other technology.
- b. Ensure that every licensed OTA, OT limited permit holder and OTA limited permit holder being supervised is aware of who the supervisor is and how the supervisor can be contacted anytime occupational therapy services are rendered.
- c. Assume responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the OTA or OTA limited permit holder.
- d. Provide evaluation and development of a treatment plan for use by the OTA.
- e. Ensure that the OTA, OT limited permit holder and OTA limited permit holder under the OT's supervision have

current licenses to practice.

- f. Ensure that the signature of an OTA on an occupational therapy treatment record indicates that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

208.5(3) The following are functions that only an occupational therapist may provide and that shall not be delegated to an OTA:

- a. Interpretation of referrals;
- b. Initial occupational therapy evaluation and reevaluations;
- c. Identification, determination or modification of patient problems, goals, and care plans;
- d. Final discharge evaluation and establishment of the discharge plan;
- e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;
- f. Delegation of and instruction in the services to be rendered by the OTA including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

208.5(4) Supervision of unlicensed assistive personnel. OTs are responsible for patient care provided by unlicensed assistive personnel under the OT's supervision. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The supervising OT shall physically participate in the patient's treatment or evaluation, or both, each treatment day;
- b. The unlicensed assistive personnel shall provide independent patient care only while under the on-site supervision of the supervising OT;
- c. Documentation made in occupational therapy records by unlicensed assistive personnel shall be cosigned by the supervising OT; and
- d. The supervising OT shall provide periodic reevaluation of the performance of unlicensed assistive personnel in relation to the patient.

208.5(5) Minimum frequency of OT interaction. At a minimum, an OT must directly participate in treatment, either in person or through a telehealth visit, every twelfth visit for all patients and must document each visit. The occupational therapist shall participate at a higher frequency when the standard of care dictates.

208.5(6) Occupational therapy assistant responsibilities.

- a. The occupational therapy assistant shall:
 - 1. Provide only those services for which the OTA has the necessary skills and shall consult the supervising occupational therapist if the procedures are believed not to be in the best interest of the patient;
 - 2. Gather data relating to the patient's disability during screening, but shall not interpret the patient information as it pertains to the plan of care;
 - 3. Communicate any change, or lack of change, which occurs in the patient's condition and which may need the assessment of the OT;
 - 4. Provide occupational therapy services only under the supervision of the occupational therapist;
 - 5. Provide treatment only after evaluation and development of a treatment plan by the occupational therapist;
 - 6. Refer inquiries that require interpretation of patient information to the occupational therapist;
 - 7. Be supervised by an occupational therapist, either on site or through the use of telecommunication or other technology, at all times when occupational therapy services are being rendered;
 - 8. Receive supervision from any number of at least one occupational therapists; and
 - 9. Record on every patient chart the name of the OTA's supervisor for each treatment session.
- b. The signature of an OTA on the occupational therapy treatment record indicates that occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

208.5(7) Unlicensed assistive personnel. Unlicensed assistive personnel may assist an OTA in providing patient care in the absence of an OT only if the OTA maintains in-sight supervision of the unlicensed assistive personnel and the OTA is primarily and significantly involved in that patient's care.

208.5(8) The occupational therapy limited permit holder may evaluate clients, plan treatment programs, and provide periodic reevaluations under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+478 practice language included that was previously part of the licensure chapter 206
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	+5 restrictive terms from practice language included that was previously part of the licensure chapter 206

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report
(Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/30/2023	Total Rule Count:	2
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 209	Iowa Code Section Authorizing Rule:	17A, 147, 148A and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the barbering and cosmetology arts and sciences professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Board believes the costs justify the benefits achieved. The Board received a combined 13 complaints in 2021 and 11 complaints in 2022. The Board initiated 1 public discipline action during that two-year period. The cost of inaction would increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are associated with costs to the licensed professional/establishment.

Licensees may be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fine amounts are not established in rule for these licensees and are determined by the Board.

The Board has statutory authority to impose a civil penalty on individuals practicing without a license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee takes action that is grounds for discipline. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of this work at 0.22 of an FTE. This additionally includes answering from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the

board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The amount of complaints received are relatively low, and costs reflect that. The Board believes the costs are justified because inaction could increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current discipline process. There could be a consideration of reducing or eliminating grounds for discipline, but the Board believes these requirements are important in order to protect the public from infection risks.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

209.1.1: Amended the following definition by adding “pursuant to Iowa Code chapter 148A and 645— Chapters 206 to 209, Iowa Administrative Code”: “Licensee”.

209.2: Amended by adding reference to common chapter 645 IAC 13(272C) and referral to Iowa Code Chapter 147.55, and eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

209.2(1): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.9(4) - 209.2(11): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.9(13): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.9(15) - 209.2(23): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

202.9(27) to 209.4: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

209.2(27) - 209.2(29): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

209.2(31): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

209.3: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

209.4: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

RULES PROPOSED FOR REPEAL (list rule number[s]):

209.2(1)

202.9(4) - 209.2(11)

202.9(13)
202.9(15) - 209.2(23)
202.9(27) to 209.4
209.2(27) - 209.2(29)
209.2(31)
209.3
209.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 209
DISCIPLINE FOR OCCUPATIONAL THERAPISTS AND
OCCUPATIONAL THERAPY ASSISTANTS

645—209.1(148B) Definitions.

“*Board*” means the board of physical and occupational therapy.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice pursuant to Iowa Code chapter 148A and 645—Chapters 206 to 209, Iowa Administrative Code-in Iowa.

645—209.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645-13 (272C) when the board determines that any of the acts or offenses listed in such rule or in Iowa Code Chapter 147.55 have occurred:

209.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other occupational therapists or occupational therapy assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average occupational therapist or occupational therapy assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed occupational therapist or licensed occupational therapy assistant in this state.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

209.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of occupational therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

209.2(3) Violation of a regulation, rule or law of this state, another state, or the United States which relates to the practice of occupational therapy, including, but not limited to, the code of ethics found in rule 645—208.1(148B,272C).

209.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of occupational therapy in another state, district, territory or country.

209.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice occupational therapy.

209.2(6) Failure to report a change of name or address within 30 days after it occurs.

209.2(7) Representing oneself as a licensed occupational therapist or occupational therapy assistant when one’s license has been suspended or revoked, or when the license is on inactive status.

209.2(8) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1295
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 220	Iowa Code Section Authorizing Rule:	149, 272C, 147, 17A
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the podiatry profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a podiatrist in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the information below:

Required education and licensure costs to become an Iowa licensed podiatrist are:

Education: Undergraduate and four years of graduate study at an accredited podiatric college

Exam fee: \$925.00 for each of three exams, totaling \$2775.00

Application fee: \$400.00 (Please note application fees are addressed in IAC 645 – 5.)

In comparison, Nebraska requirements are below for podiatrists:

Education: Undergraduate and four years of graduate study at an accredited podiatric college

Exam fee: \$925.00 for each of three exams, totaling \$2775.00

Application fee: \$131.00

Fingerprinting/background: \$45.25

Minnesota podiatrist requirements are below:

Education: Undergraduate and four years of graduate study at an accredited podiatric college

Exam fee: \$925.00 for each of three exams, totaling \$2775.00

Application fee: \$600.00

Fingerprinting/background: \$33.25

Iowa's initial licensure application process is similar to those implemented by other state boards of podiatry. The application fees vary by state however, with Kansas at \$750.00, Minnesota at \$600.00, and South Dakota at \$500.00 all higher, Illinois at the same cost of \$400.00, and Missouri at \$200.00, and Nebraska at \$131.00 both lower.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .15 of an FTE to review application materials for podiatrists, orthotists, prosthetists, and pedorthists, all overseen by the Board of Podiatry. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated with competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of podiatrists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans in that scenario. In addition, the rule provides consistency related to the licensure of podiatrists in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 220.1: Removed redundant and obsolete language from the definitions
- 220.2: Replaced restrictive term with less restrictive alternative, combined to remove redundant language, implemented changes from HF635
- 220.6: Replaced restrictive term with less restrictive alternative, combined to remove redundant language
- 220.7: Replaced restrictive term with less restrictive alternative, combined to remove redundant language
- 220.8: Implemented changes from HF635
- 220.9: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

220.15: Replaced restrictive term with less restrictive alternative, combined to remove redundant language

RULES PROPOSED FOR REPEAL (list rule number[s]):

220.8 – already been rescinded

220.10 – 220.14 – already been rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 220

LICENSURE OF PODIATRISTS

645—220.1(149) Definitions.

“Active license” means a license that is current and has not expired.

“Board” means the board of podiatry.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a podiatrist in the state of Iowa.

“License expiration date” means June 30 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice podiatry to an applicant who is or has been licensed in another state.

“NBPME” means National Board of Podiatric Medical Examiners.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—220.15(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice podiatry to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of podiatry to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—220.2(149) Requirements for licensure.

220.2(1) Submit a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15.

220.2(2) No application will be considered complete until official copies of academic transcripts are received, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board.

220.2(3) Licensees who were issued their licenses within six months prior to the renewal date do not need to renew their licenses until the renewal date two years later.

220.2(4) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

220.2(5) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the

NBPME examination based on the applicant's credentials and the discretion of the board.

220.2(6) An applicant who graduated from a podiatric college on or after January 1, 1995, but before January 1, 2013, shall present documentation of successful completion of a residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.2(7) An applicant who graduated from a podiatric college on or after January 1, 2013, shall present documentation of successful completion of two years of a residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education. **220.2(10)** Passing score reports for Part I, Part II, and Part III of the NBPME examination shall be sent directly from the examination service to the board.

645—220.3(149) Written examinations.

220.3(1) The examinations required by the board shall be Part I, Part II, and Part III of the NBPME.

220.3(2) The applicant has responsibility for:

- a.* Making arrangements to take the examinations; and
- b.* Arranging to have the examination score reports sent directly to the board from the NBPME.

220.3(3) A passing score as recommended by the administrators of the NBPME examinations shall be required.

645—220.4(149) Educational qualifications.

220.4(1) A new applicant for permanent or temporary licensure to practice as a podiatrist shall present official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board of podiatry.

220.4(2) Foreign-trained podiatrists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, website www.ierf.org, or email at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a podiatry program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—220.5(149) Title designations. A podiatrist may use the prefix "Doctor" but shall add after the person's name the word "Podiatrist" or "DPM."

645—220.6(147,149) Temporary license.

220.6(1) A temporary license may be issued for up to one year and may be annually renewed at the discretion of the board. Temporary licenses will expire on June 30.

220.6(2) Each applicant shall:

a. Submit a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15. Have official copies of academic transcripts sent directly to the board of podiatry from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

b. Request that passing score reports of the NBPME examination Part I and Part II be sent directly to the board of podiatry from the National Board of Podiatric Medical Examiners;

c. Furnish an affidavit by the institution director or dean of an approved podiatric college attesting that the applicant has been accepted into a residency program in this state that is approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

d. Request verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

220.6(3) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state, and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.6(4) The ultimate decision to issue a temporary license resides with the board, and a temporary license shall be surrendered if the reason for issuance ceases to exist.

645—220.7(149) Licensure by endorsement. An applicant who has been a licensed podiatrist under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

220.7(1) The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

- a. Submits a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15. Shows evidence of licensure requirements that are similar to those required in Iowa;
- b. Provides the board with official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board of podiatry; and
- c. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - (1) Licensee's name;
 - (2) Date of initial licensure;
 - (3) Current licensure status; and
 - (4) Any disciplinary action taken against the license.

220.7(2) An applicant shall submit the passing score reports for Part I and Part II of the NBPME examination. An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state, and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.7(3) An applicant shall submit passing score reports for Part III of the NBPME examination. An applicant who passed the Part III NBPME examination more than three years prior to the date of application in Iowa must submit proof of podiatry practice for one of the last three years.

220.7(4) An applicant who graduated from a podiatric college on or after January 1, 1995, must present documentation of successful completion of a residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.7(5) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—220.8(149) License renewal.

220.8(1) The biennial license renewal period for a license to practice podiatry begins on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

220.8(2) An individual who was issued a license within six months of the license renewal date do not need to renew their license until the subsequent renewal two years later.

220.8(3) An applicant who graduated from a podiatric college on or after January 1, 2013, and who is seeking renewal for the first time, shall present documentation of successful completion of a residency program approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.8(4) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—222.2(149,272C) and the mandatory reporting requirements of subrule 220.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.

220.8(5) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children and dependent adults in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall complete the applicable department of health and human services' training related to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3)"b." The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

c. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

220.8(6) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

220.8(7) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

220.8(8) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 645—subrule 5.15(3). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license

220.8(9) Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a podiatrist in Iowa until the license is reactivated. A licensee who practices as a podiatrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—220.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license:

220.9(1) Submit a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15.

220.9(3) Provide verification of current competence to practice as a podiatrist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board

office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—220.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—220.15(17A,147,272C) prior to practicing as a podiatrist in this state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	756
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	20

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 221	Iowa Code Section Authorizing Rule:	148F, 272C, 147, 17A
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the professions of orthotist, prosthetist, and pedorthist. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure in these professions in the state of Iowa, as directed in statute under Chapter 148F. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the information below:

Required education and licensure costs to become an Iowa licensed orthotist, prosthetist, and pedorthist are:

Education: Undergraduate degree
Exam fee for Orthotists, Prosthetists, or Pedorthists: \$400.00
Exam fee for combined Orthotist/Prosthetist: \$550.00
Application fee: \$400.00 (Please note application fees are addressed in IAC 645 – 5.)

In comparison, Oklahoma requirements are below:

Education: Undergraduate degree
Exam fee for Orthotists, Prosthetists, or Pedorthists: \$400.00
Exam fee for combined Orthotist/Prosthetist: \$550.00
Application fee for Orthotists or Prosthetists: \$300.00
Application fee for Pedorthists: \$180.00

Minnesota requirements are below:

Education: Undergraduate degree

Exam fee for orthotists, prosthetists, or pedorthists: \$400.00
Exam fee for combined orthotist/prosthetist: \$550.00
Application fee for orthotists and prosthetists : \$600.00
Application fee for pedorthists: \$400.00
Fingerprinting/background for all three professions: \$33.25

Iowa's initial licensure application process is similar to those implemented by 14 other state boards that oversee the licensure of these professions.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .15 of an FTE to review application materials for the Board of Podiatry which also oversees orthotists, prosthetists, and pedorthists. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements leads to the decline of malpractice, fraud, abuse, and other improper O&P care. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of orthotists, prosthetists, and pedorthists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, regulation of O&P is growing and the rule provides consistency related to the licensure of these professions, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

221.1: Removed redundant and obsolete language from the definitions
221.2: Removed obsolete language regarding transitioning
221.3: Replaced restrictive term with less restrictive alternative, combined to remove redundant language
221.6: Replaced restrictive term with less restrictive alternative, combined to remove redundant language
221.7: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
221.8: Combined to remove redundant language

RULES PROPOSED FOR REPEAL (list rule number[s]):

221.2 – removed obsolete language

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 221
LICENSURE OF ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

645—221.1(148F) Definitions.

“Active license” means a license that is current and has not expired.

“Board” means the board of podiatry.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as an orthotist, prosthetist, or pedorthist in the state of Iowa.

“License expiration date” means June 30 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice orthotics, prosthetics, or pedorthics to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—221.8(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice orthotics, prosthetics, or pedorthics to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of podiatry to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—221.2(148F) Requirements for licensure.:

221.2(1)

Submit a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15.

221.2(2)

221.2(3) No application will be considered complete until official copies of academic transcripts are received.

a. Applicants for licensure in orthotics or prosthetics must submit proof of graduation from an educational program approved by the Commission on Accreditation of Allied Health Education Programs.

b. Applicants for licensure in pedorthics must submit proof of graduation from an educational program approved by the National Commission on Orthotic and Prosthetic Education.

221.2(4) Transcripts must be sent directly from the school to the board.

221.2(5) Licensees who were issued their licenses within six months prior to the renewal date do not need to renew their licenses until the renewal date two years later.

221.2(6) Incomplete applications that have been on file in the board office for more than two years will be:

- a.* Considered invalid and destroyed; or
- b.* Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

221.2(7) The applicant shall ensure that the passing score from the appropriate professional examination is sent directly to the board from the examination service.

221.2(8) Applicants for licensure in orthotics or prosthetics must provide documentation of successful completion of a residency program accredited by the National Commission on Orthotic and Prosthetic Education.

221.2(9) Applicants for licensure in pedorthics must provide documentation of successful completion of a qualified clinical experience program.

645—221.3(148F) Written examinations.

221.3(1) Prosthetists must have completed and passed the Board of Certification/Accreditation, International (BOC), or American Board for Certification in Orthotics, Prosthetics and Pedorthics, Incorporated (ABC), examination for prosthetists.

221.3(2) Orthotists must have completed and passed the BOC or ABC examination for orthotists. **221.3(3)** Pedorthists must have completed and passed the BOC or ABC examination for pedorthists. **221.3(4)** The applicant has responsibility for:

- a.* Making arrangements to take the examinations; and
- b.* Arranging to have the examination score reports sent directly to the board from the ABC or BOC.

221.3(5) A passing score as recommended by the administrators of the ABC or BOC examination shall be required.

645—221.4(148F) Educational qualifications.

221.4(1) An applicant for licensure to practice as an orthotist or prosthetist shall present official copies of academic transcripts, verifying completion of the following requirements:

- a.* A baccalaureate or higher degree from a regionally accredited college or university. Transcripts must be sent directly from the school to the board of podiatry; and
- b.* Verification of completion of an academic program in orthotics or prosthetics accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP). Transcripts must be sent directly from the school to the board of podiatry.

221.4(2) An applicant for licensure to practice as a pedorthist shall present official copies of academic transcripts, verifying completion of the following requirements:

- a.* A high school diploma or its equivalent; and
- b.* Verification of completion of an academic program in pedorthics accredited by the National Commission on Orthotic and Prosthetic Education. Verification must be sent directly from the school to the board of podiatry.

221.4(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

645—221.5(148F) Licensure by endorsement.

221.5(1) An applicant who has been a licensed orthotist, prosthetist, or pedorthist under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

- a.* Submits a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15. Shows evidence of licensure requirements that are similar to those required in Iowa;
- b.* For prosthetic or orthotic licensure, provides:
 - (1) A baccalaureate or higher degree from a regionally accredited college or university. Transcripts must be sent directly from the school to the board of podiatry; and
 - (2) Verification of completion of an academic program in orthotics or prosthetics accredited by CAAHEP. Transcripts must be sent directly from the school to the board of podiatry;
- c.* For pedorthic licensure, provides:
 - (1) A high school diploma or its equivalent; and
 - (2) Verification of completion of an academic program in pedorthics accredited by the National Commission on Orthotic and Prosthetic Education. Verification must be sent directly from the school to the board of podiatry;
- d.* Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
 - (1) Licensee's name;
 - (2) Date of initial licensure;
 - (3) Current licensure status; and
 - (4) Any disciplinary action taken against the license;
- e.* Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board.

221.5(2) Individuals who were issued their licenses by endorsement within six months of the license renewal date do not need to renew their licenses until the next renewal date two years later.

221.5(3) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—221.6(148F) License renewal.

221.6(1) The biennial license renewal period for a license to practice orthotics, prosthetics, or pedorthics begins on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

221.6(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

221.6(3) A licensee seeking renewal shall:

- a.* Meet the continuing education requirements of rule 645—225.2(148F,272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b.* Submit the completed renewal application and renewal fee before the license expiration date.

221.6(4) Upon receipt of the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

221.6(5) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

221.6(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.15(7). To renew a late license, the

licensee shall complete the renewal requirements and submit the late fee within the grace period.

221.6(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice as an orthotist, prosthetist, or pedorthist in Iowa until the license is reactivated. A licensee who practices as an orthotist, prosthetist, or pedorthist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—221.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

221.7(1) Submit a completed online application for licensure and pay the non-refundable licensure fee specified in 645-subrule 5.15.

221.7(2) Provide verification of current competence to practice by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of:

1. For orthotists or prosthetists, 30 hours of continuing education within two years of application for reactivation.
2. For pedorthists, 20 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of:

1. For orthotists or prosthetists, 60 hours of continuing education within two years of application for reactivation.
2. For pedorthists, 40 hours of continuing education within two years of application for reactivation.

645—221.8(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—221.8(17A,147,272C) prior to practicing as an orthotist, a prosthetist, or a pedorthist in this state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	494
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	12

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/2023	Total Rule Count:	3 plus 7 previously rescinded
IAC #:	645	Chapter/ SubChapter/ Rule(s):	222	Iowa Code Section Authorizing Rule:	149
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for podiatrists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that podiatrists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that podiatrists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be around \$200.00 every two years for a licensee to meet these requirements. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education

requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that some other states do successfully manage continuing education programs with fewer hours required per renewal cycle, or with an extended renewal cycle. Currently, Iowa requires 40 hours of continuing education for this license type every two years. Illinois requires 100 hours every two years, Nebraska requires 48 every two years, and Minnesota requires 40 hours every two years. Kansas requires 54 hours every three years, South Dakota requires 30 hours every two years, and Missouri requires 20 hours every two years. Representatives of the Iowa board reviewed the required hours and did not support reducing them.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 222.1 – Remove unnecessary definitions
- 222.2 – Removed restrictive language
- 223.3 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

222.4 - 222.10 – already been rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 222
CONTINUING EDUCATION FOR PODIATRISTS

645—222.1(149,272C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education

requirements during a specified time period.

“Board” means the board of podiatry.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and include a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as a podiatrist in the state of Iowa.

645—222.2(149,272C) Continuing education requirements.

222.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a podiatrist in this state shall be required to complete a minimum of 40 hours of continuing education.

222.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

222.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

222.2(4) No hours of continuing education will be carried over into the next biennium.

222.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—222.3(149,272C) Standards.

222.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (1) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

222.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by teaching in a college, university, or graduate school that is recognized by the U.S. Department of Education. The licensee may receive credit on a one-time basis for the first offering of a course.

b. Continuing education hours of credit may be obtained by completing the following programs/activities of a podiatric scientific nature and sponsored by an accredited college of podiatric medicine or the American Podiatric Medical Association or a regional or state affiliate or nonprofit hospital that are:

- (1) Educational activities in which participants and faculty are present at the same time and attendance can be

verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Scientifically oriented material or risk management activities.

c. If the podiatrist utilizes conscious sedation, the podiatrist shall obtain a minimum of one hour of continuing education in the area of conscious sedation or other related topics.

d. A licensee who has prescribed opioids to a patient during a renewal cycle shall have obtained a minimum of 1 hour of continuing education regarding the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options.

e. Combined maximum per biennium of 20 hours for the following continuing education source areas will not exceed:

(1) Presenting professional programs which meet the criteria listed in this subrule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

(2) Ten hours of credit for viewing videotaped presentations if the following criteria are met:

1. There is an approved sponsoring group or agency;
2. There is a facilitator or program official present;
3. The program official is not the only attendee; and
4. The program meets all the criteria in 645—222.3(149,272C).

(3) Ten hours of credit for computer-assisted instructional courses or programs pertaining to patient care and the practice of podiatric medicine and surgery. These courses and programs must be approved by the American Podiatric Medical Association or its affiliates and have a certificate of completion that includes the following information:

1. Date course/program was completed;
2. Title of course/program;
3. Number of course/program contact hours; and
4. Official signature or verification of course/program sponsor.

(4) Five hours of credit for reading journal articles pertaining to patient care and the practice of podiatric medicine and surgery. The licensee must pass a required posttest and be provided with a certificate of completion.

f. No office management courses will be accepted by the board.

g. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

h. Credit is given only for actual hours attended.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	201
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 223	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with definitions relevant to the practice of podiatrists, requirements for administering conscious sedation, preventing HIV and HBV transmission, unlicensed graduates of a podiatric college working as assistants, and prescribing opioids. This rule articulates practice standards and provides a scope of practice for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are costs associated with practice standards as there is often time, effort and money associated with compliance. There are costs associated with administering and receiving sedation medications, reviewing guidance transmitting illnesses, attending podiatric college, and prescribing opioids. The Board does not have a mechanism for estimating what these total costs might be to the licensee. Costs to the general public are associated with receiving care. The Board does not have a mechanism for estimating what these total costs might be as each patient’s level of care is individualized depending on their health care needs.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc. An executive officer supports the work of this board at approximately 0.20 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

This is a small profession. There are approximately 248 licensed podiatrists in Iowa. In 2022, the Board received 11 complaints and issued public discipline to one podiatrist. The Board believes that the costs justify the benefits achieved because this is a medical profession that requires a high level of skill and precision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to ensure the quality of care provided to patients by podiatrists. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards however, and

these rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 223.1 Removed redundant language
- 223.2 Replaced restrictive terms with less restrictive alternatives
- 223.3 Replaced restrictive terms with less restrictive alternatives
- 223.4 Replaced restrictive terms with less restrictive alternatives
- 223.5 Replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 223

PRACTICE OF PODIATRY

[Prior to 8/7/02, see rules 645—219.3(514F), 645—219.4(139A)]

645—223.1(149) Definitions.

“Ambulatory surgical center” or *“ASC”* means an ambulatory surgical center that has in effect an agreement with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, in accordance with 42 CFR Part 416.

“Conscious sedation” means a depressed level of consciousness produced by the administration of pharmacological substances that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

645—223.2(149) Requirements for administering conscious sedation. A licensed podiatrist who holds a permanent license in good standing may use conscious sedation for podiatric patients on an outpatient basis in a hospital or ASC after the podiatrist has submitted to the board office an attestation on a form approved by the board.

223.2(1) The attestation shall include:

a. Evidence of successful completion within the past five years of a formal anesthesiology rotation in a residency program approved by the Council on Podiatric Medical Education (CPME); or

b. For a podiatrist who does not meet the requirements of paragraph *“a,”* an attestation with evidence that the podiatrist is authorized by the governing body of a hospital or ASC to use conscious sedation. This attestation must be received by the board prior to January 1, 2005.

223.2(2) The podiatrist will provide verification of current certification in Basic Cardiac Life Support (BCLS) or Advanced Cardiac Life Support (ACLS).

223.2(3) A podiatrist who has an attestation on file and continues to use conscious sedation will meet the requirements of 645—Chapter 222 at the time of license renewal. A minimum of one hour of continuing education in the area of conscious sedation or related topics is required beginning with the renewal cycle of July 1, 2004, to June 30, 2006. Continuing education credit in the area of conscious sedation may be applied toward the 40 hours of continuing education required for renewal of the license. In addition, the podiatrist will maintain current certification in BCLS or ACLS.

223.2(4) A podiatrist will only utilize conscious sedation in a hospital or ASC when the podiatrist has been granted clinical privileges by the governing body of the hospital or ASC in accordance with approved policies and procedures of the hospital or ASC.

223.2(5) It is a violation of the standard of care for a podiatrist to use conscious sedation agents that result in a deep sedation or general anesthetic state.

223.2(6) Reporting of adverse occurrences related to conscious sedation. A licensed podiatrist who has an attestation on file with the board must submit a report to the board within 30 days of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during or as a result of conscious sedation. Included in the report will be the following:

- a.* Description of podiatric procedures;
- b.* Description of preoperative physical condition of patient;
- c.* List of drugs and dosage administered;
- d.* Description, in detail, of techniques utilized in administering the drugs;
- e.* Description of adverse occurrence, including:
 - (1) Symptoms of any complications including, but not limited to, onset and type of symptoms;
 - (2) Treatment instituted;
 - (3) Response of the patient to treatment;
- f.* Description of the patient's condition on termination of any procedures undertaken;
- g.* If a patient is transferred, a statement providing where and to whom; and
- h.* Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(7) Failure to report. Failure to comply with subrule 223.2(6) when the adverse occurrence is related to the use of conscious sedation may result in the podiatrist's loss of authorization to administer conscious sedation or in other sanctions provided by law.

223.2(8) Record keeping. The patient's chart must include:

- a.* Preoperative and postoperative vital signs;
- b.* Drugs administered;
- c.* Dosage administered;
- d.* Anesthesia time in minutes;
- e.* Monitors used;
- f.* Intermittent vital signs recorded during procedures and until the patient is fully alert and oriented with stable vital signs;
- g.* Name of the person to whom the patient was discharged; and
- h.* Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(9) Failure to comply with these rules is grounds for discipline.

645—223.3(139A) Preventing HIV and HBV transmission. Podiatrists will comply with the recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, or with the recommendations of the expert review panel established pursuant to Iowa Code section 139A.22(3) and applicable hospital protocols established pursuant to Iowa Code section 139A.22(1). Failure to comply will be grounds for disciplinary action.

645—223.4(149) Unlicensed graduate of a podiatric college. An unlicensed graduate of a podiatric college may function in the licensed podiatrist's office only as a podiatric assistant. The licensed podiatrist has full responsibility and liability for the unlicensed person.

223.4(1) Treatments, charting, and notations completed by the unlicensed graduate must be initialed by that person

and countersigned by the licensed podiatrist.

223.4(2) An unlicensed graduate will not:

- a. Be referred to as “doctor” during professional contact with patients.
- b. Treat patients in the office without a licensed podiatrist present.
- c. Perform surgical work without direct supervision of a licensed podiatrist.
- d. Diagnose or prescribe medicine.
- e. Take independent actions regarding diagnosis, treatment or prescriptions.
- f. Visit nursing homes or make house calls without the presence of the licensed podiatrist.
- g. Bill for any services.

645—223.5(149) Prescribing opioids. Podiatrists will review a patient’s information contained in the prescription monitoring program database for each opioid prescription prior to prescribing, unless the patient is receiving inpatient hospice care or long-term residential facility care.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	69
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

NA

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Licensing	Date:	8/1/2023	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 224	Iowa Code Section Authorizing Rule:	149 and 148F
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for podiatrists, orthotists, prosthetists, and pedorthists. This is important to both the public and to the licensees because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the podiatry profession and are therefore excluded from the general disciplinary chapter. The grounds for discipline required in this rule were required by HF 2377, which was an act related to the regulation of certain substances. This bill required applicable licensing boards to write rules establishing penalties for improper prescribing.

Is the benefit being achieved? Please provide evidence.

The Podiatry Board receives a low number of complaints and issues a small number of discipline. In 2022 the Board received 11 complaints and issued public discipline to one podiatrist. These are small professions, with 248 podiatrists, 12 temporary podiatry licenses, 75 orthotists, 60 prosthetists, and 8 pedorthists in the state. While a low number of complaints can call into question the extent to which a profession needs to be regulated, podiatry is a form of medicine, is technical in nature, and requires a high level of skill, so the Board believes that regulation is necessary. Likewise, orthotists, prosthetists, and pedorthists are also technical and require a high level of skill, so the Board also believes that regulation is necessary as well.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care in medical journals, etc. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000.00, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practices of podiatry, orthotics, prosthetics, and pedorthics requires skill and precision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

224.2 - Removed duplicative language found in 645 Chapter 13
224.2(2) thru (31) – Removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

224.1 Definitions – removed unnecessary and duplicative definitions found in 645 Chapter 13
224.3 – 224.4 - Removed duplicative language found in 645 Chapter 13
224.5 – already been rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 224
DISCIPLINE FOR PODIATRISTS
[Prior to 2/6/02, see 645—Chapter 220]

645—224.1(148F,149,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code Chapter 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13:

224.1(1) Prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent

prescribing practitioner engaged in the same practice.

645—224.2(148F,149,272C) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose. The board may impose any of the disciplinary sanctions provided in rule 645—224.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

224.2(1) Self-prescribing or self-dispensing controlled substances.

224.2(2) Prescribing or dispensing controlled substances to members of the licensee’s immediate family for an extended period of time.

a. Prescribing or dispensing controlled substances to members of the licensee’s immediate family is allowable for an acute condition or on an emergency basis when the physician conducts an examination, establishes a medical record, and maintains proper documentation.

b. Immediate family includes spouse or life partner, natural or adopted children, grandparent, parent, sibling, or grandchild of the physician; and natural or adopted children, grandparent, parent, sibling, or grandchild of the physician’s spouse or life partner.

224.2(3) Prescribing or dispensing controlled substances outside the scope of the practice of podiatry.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1498
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	225	Iowa Code Section Authorizing Rule:	148F
Contact Name:	Tony Alden	Email:	Tony.alden@dial.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for orthotists, prosthetists, and pedorthists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that podiatrists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that orthotists, prosthetists, and pedorthists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be around \$200.00 every two years for a licensee to meet these requirements. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board, including the profession of podiatry, at approximately 0.20 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education

requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required, but a review of other states has shown that many states have similar requirements to Iowa, or require more hours. Currently, Iowa requires 30 hours of continuing education for orthotists and prosthetists every two years, as does Oklahoma, Illinois, Florida, and Arkansas. Minnesota requires 40 hours every two years. Iowa requires 20 hours every two years for pedorthists. Oklahoma requires 11 hours every year and Minnesota requires 40 hours every two years. Representatives of the Iowa board reviewed the required hours and did not support reducing them.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 225.1 – Remove unnecessary definitions
- 225.2 – Removed restrictive language
- 225.3 – Removed restrictive language
- 225.4 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 225

CONTINUING EDUCATION FOR ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

645—225.1(148F) Definitions.

“ABC” means the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Incorporated.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of podiatry.

“*BOC*” means the Board of Certification/Accreditation, International.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an orthotist, prosthetist, or pedorthist in the state of Iowa.

645—225.2(148F,272C) Continuing education requirements.

225.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year.

a. Each biennium, each person who is licensed to practice as an orthotist in this state shall be required to complete a minimum of 30 hours of continuing education.

b. Each biennium, each person who is licensed to practice as a prosthetist in this state shall be required to complete a minimum of 30 hours of continuing education.

c. Each biennium, each person who is licensed to practice as a pedorthist in this state shall be required to complete a minimum of 20 hours of continuing education.

225.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

a. The new orthotic licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

b. The new prosthetic licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

c. The new pedorthic licensee will be required to complete a minimum of 20 hours of continuing education per biennium for each subsequent license renewal.

225.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

225.2(4) No hours of continuing education will be carried over into the next biennium.

225.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—225.3(148F,272C) Standards.

225.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, and presenter(s);

- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

225.3(2) Specific criteria for licensees.

a. Licensees may obtain continuing education hours of credit by attending workshops, conferences, symposiums, electronically transmitted courses, live interactive conferences, and academic courses which relate directly to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses which apply to the field of orthotics, prosthetics, or pedorthics will be necessary in order to receive the following continuing education credits:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit

b. Licensees may obtain continuing education hours of credit by teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of a course.

c. Continuing education hours of credit may be granted for any of the following activities not to exceed a maximum combined total of 15 hours for orthotists and prosthetists and 10 hours for pedorthists:

(1) Presenting professional programs which meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

(2) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee will receive 5 hours of credit per page.

(3) Viewing videotaped presentations and electronically transmitted material that have a postcourse test if the following criteria are met:

- 1. There is a sponsoring group or agency;
- 2. There is a facilitator or program official present;
- 3. The program official is not the only attendee; and
- 4. The program meets all the criteria specified in this rule.

(4) Participating in home study courses that have a certificate of completion and a postcourse test.

(5) Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics.

(6) Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics.

(7) Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics.

645—225.4(148F,272C) Audit of continuing education report. In addition to the requirements of 645—4.11(272C), proof of current BOC or ABC certification as an orthotist, prosthetist, or pedorthist will be accepted in lieu of individual certificates of completion for an audit.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	78
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Psychology	Date:	8/16/2023	Total Rule Count:	15
IAC #:	645	Chapter/ SubChapter/ Rule(s):	240	Iowa Code Section Authorizing Rule:	154B
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the psychology profession. Iowa residents, licensees, and employers benefit from the rule as it articulates the processes by which individuals apply for licensure in the state of Iowa, as directed in statute. This includes the process for initial licensure, provisional, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. The rule also satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below cost of licensure in Iowa:

Education: Undergraduate and doctoral degree
Exam fee: \$687.50
Application fee: \$120 (Please note application fees are addressed in IAC 645 – 5.)

Education and Exam costs are the same for surrounding states as they also use the same exam and require the same educational requirements.

Application fee for Nebraska is \$183, Minnesota is \$500, Illinois is \$50, South Dakota is \$300, Kansas is \$150, and Missouri is \$150.

Iowa’s initial licensure application process is similar to those implemented by other state boards.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .20 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated with competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive means of regulating this profession. The professional standards articulated in these rules are consistent with national best practices and recognize the highly sensitive nature of the services provided by psychologists. These standards could be reduced; however, the Board would have concerns that doing so would increase the potential for inappropriate or dangerous practices occurring in Iowa.

Due to state government alignment this board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 240.1 – Removed duplicative, unnecessary, and outdated language**
- 240.2 – Removed duplicative, unnecessary, and restrictive language**
- 240.3 – Removed restrictive language.**
- 240.4 – Removed unnecessary and restrictive language**
- 240.5 – Removed duplicative language.**
- 240.6 – Removed restrictive language**
- 240.7 - Removed unnecessary language**
- 240.8 – Removed unnecessary language**
- 240.9 – Removed restrictive language**
- 240.10 – Removed restrictive language**
- 240.12 – Removed duplicative language**
- 240.14 – Removed unnecessary language**

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 240 LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired. “*ASPPB*” means the Association of State and Provincial Psychology Boards. “*Board*” means the board of psychology.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Clinical experience*” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another jurisdiction.

“*Mandatory training*” means the requirements found in Iowa Code section 232.69.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Provisional license*” means a license issued to a person who is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—240.2(154B) Requirements for initial psychology licensure. The following criteria shall apply to licensure:

240.2(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.16.

240.2(2) Except as otherwise stated in these rules, no application will be considered by the board until:

a. Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

b. Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors.

240.2(3) An applicant shall successfully pass the national examination.

240.2(4) The applicant shall have the national examination score sent directly from the ASPPB to the board.

240.2(5) Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

645—240.3(154B) Educational qualifications. An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) At the time of an applicant’s graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

- (2) Accredited by the Canadian Psychological Association; or
- (3) Designated by the ASPPB/National Register; or
- b.* The applicant holds current board certification from the American Board of Professional Psychology; or
- c.* The applicant possesses a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

240.3(2) Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 240.3(1) will:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Psychologists, 1200 New York Avenue NW, Suite 800, Washington, D.C. 20005, telephone (202)783-7663, website www.nationalregister.org, or by an evaluation service with membership in the National Association of Credential Evaluation Services at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate will bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in subrule 240.3(1).

b. Submit evidence of meeting all other requirements for licensure stated in these rules.

645—240.4(154B) Examination requirements. An applicant will pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant will:

a. Meet all requirements of subrules 240.2(1) and 240.2(2); and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology verifying completion of a doctoral degree in psychology in accordance with rule 645—240.3(154B).

240.4(2) The EPPP passing score shall be utilized as the Iowa passing score.

645—240.5(154B) Postdoctoral residency.

240.5(1) The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

240.5(2) During the postdoctoral residency, the supervisee will competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

a. The supervisee and supervisor will complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

b. A supervisor will not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.

c. The supervisee and supervisor will meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.

d. The supervisor will provide supervision at all times, which means the supervisor will be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor will identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.

e. The supervisee and supervisor will have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.

f. The supervisor will establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

g. The supervisor will provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.

h. The supervisor and supervisee will ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.

i. The supervisor will have reasonable access to the clinical records corresponding to the work being supervised. The supervisor will countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.

- j. All services will be offered in the name of the supervisor. The supervisee and supervisor will ensure that the supervisee uses a title in accordance with rule 645—240.13(154B,147).
- k. The fee schedule and receipt of payment will remain the sole domain of the supervisor or employing agency.
- l. The supervisor will maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.
- m. The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

645—240.6(154B) Certified health service provider in psychology.

240.6(1) Requirements for the health service provider in psychology. The applicant shall:

- a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.6(2) and at least one year of clinical experience in a health service setting that meets the requirements for postdoctoral residency stated in rule 645—240.5(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Psychologists to verify completion of the required clinical experience.
- b. Submit a completed application and nonrefundable application fee along with supporting documentation. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:
 - (1) Considered invalid and shall be destroyed; or
 - (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.
- c. Renew the certificate biennially at the same time as the psychology license.

240.6(2) Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

- a. Provides the intern with a planned, programmed sequence of training experiences.
- b. Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- c. Has two or more doctoral-level psychologists on the staff who serve as supervisors, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.
- e. Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.
- f. Ensures that trainees have a minimum of 375 hours of direct patient contact.
- g. Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.
- h. Has training that is at the postclerkship, postpracticum, and postexternship level.
- i. Has a minimum of two interns at the internship level of training during any period of training.
- j. Designates for internship-level trainees titles such as "intern," "resident," "fellow," or other designation of trainee status.
- k. Has a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees' work and is made available to prospective interns.
- l. Provides a minimum of 1500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

645—240.7(154B) Requirements for provisional license.

240.7(1) *Predoctoral internship.* An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

- a. Submit a completed provisional application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.16.
- b. A copy of the applicant's acceptance letter for the predoctoral internship.
- c. Identification of the training director and the training director's contact information.
- d. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 645—240.3(154B).

240.7(2) *Postdoctoral residency.* An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

- a. Submit a completed application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.16.
- b. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 645—240.3(154B) are met.
- c. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

240.7(3) *Duration.* The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a. A provisional license renewal application;
- b. A provisional license renewal fee; and

A current supervision plan as required in these rules.

645—240.8(147) *Licensure by endorsement.* An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.8(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in 645 subrule 5.16.

240.8(3) Provides verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least three years of an independent license as described in subrule 240.8(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.8(4) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least three years with no disciplinary history. Except as stated in subrule 240.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 240.8(4) "a" and "b." The board may license by endorsement any other applicant who:

b. Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

c. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and
2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Providers in Psychology.

2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.8(5) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—240.9(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure and the nonrefundable licensure fee specified in 645 subrule 5.16.

240.9(1) The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.9(2) The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

645—240.10(147) License renewal.

240.10(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

240.10(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
b. Submit the completed renewal application and renewal fee before the license expiration date.

240.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.10(4) "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.13(4) "e."

c. The course(s) shall be the curriculum provided by the Iowa department of human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 240.13(4) "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 240.10(4) “a” to “e.”

240.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.10(6) A person licensed to practice as a psychologist shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

240.10(7) Late renewal.

a. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

b. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

240.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—240.11(147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.11(1) Submit a reactivation application.

240.11(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.11(3) Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

a. Licensee’s name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

240.11(4) Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

645—240.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—240.11(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

645—240.13(154B,147) Title designations.

240.13(1) Students who are enrolled in an education program that satisfies the requirements of subrule 240.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

240.13(2) Applicants for licensure who have met educational requirements and who are completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except during a postdoctoral residency that meets the requirements of rule 645—240.6(154B).

240.13(3) Persons who possess provisional licenses shall add the designation “provisional license in psychology”

following the “resident,” “intern,” or “fellow” designation.

645—240.14(154B) Psychologists’ supervision of persons other than postdoctoral residents in a practice setting.

240.14(1) This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 645—240.6(154B), regardless of whether the individual is provisionally licensed or not.

240.14(2) The supervising psychologist will:

a. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

b. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work will be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors will also be available for emergency consultation and intervention.

c. Provide work assignments that are commensurate with the skills of the supervisee. All procedures will be planned in consultation with the supervisor.

d. Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on site whenever the supervisee is working for purposes of providing emergency consultation.

e. Make public announcement of services and fees; contact with laypersons or the professional community will be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

f. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person’s status and information regarding the person’s qualifications and functions.

g. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client’s, the supervisee’s or the supervisor’s request.

h. Provide for setting and receipt of payment that will remain the sole domain of the employing agency or supervising psychologist.

i. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

j. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description will be made available to representatives of the board and service recipients upon request.

k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

l. Countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervising psychologist.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	999
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	44

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Psychology	Date:	8/16/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	241	Iowa Code Section Authorizing Rule:	154B
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for psychologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that psychologists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that psychologists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Licensees have multiple options. Courses can range anywhere from \$100 an hour to \$0 per hour. The Board allows for online coursework which increases the availability of free or low cost options.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The Board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the Board would need to conduct, but the Board has not

been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. Iowa requires 40 hours of continuing education every two years. A review of surrounding states indicates Illinois and Nebraska require 24 hours; Minnesota, Missouri, and South Dakota require 40 hours; and Kansas requires 50 hours.

Staff held conversations with board members inquiring if the Board would recommend lowering the continuing education requirements. The Board did not recommend a change in continuing education hours.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed

241.1 – Remove unnecessary definitions

241.2 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

**CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS**

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of psychology.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice,

education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“License” means license to practice.

“Licensee” means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

“Practice of psychology” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will need to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours will be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

241.2(6) No hours of continuing education are required to renew a provisional license.

645—241.3(154B,272C) Standards.

241.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) Specific criteria.

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of 2 of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the

license biennium.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours 1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	264
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Psychology	Date:	8/1/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	242	Iowa Code Section Authorizing Rule:	154B
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for optometrists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the Board's professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Psychology Board received 10 complaints in 2021 and 12 complaints in 2022. The Board initiated 1 public discipline action during that two-year period. Psychologists routinely provide mental health services to lowans. Licensee who fail to meet practice standards have the potential to inflict serious harm to vulnerable lowans who receive their services, so the Board believes that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are associated with costs to the licensee. The licensee is responsible for obtaining the necessary prerequisite training and education to meet the standards of their profession and comply with the ethical standards laid out in this rule. They are responsible for the costs of obtaining and maintaining this knowledge. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Civil penalties are capped at \$1,000 per incident, up to a maximum of \$10,000.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practice of psychology includes the provision of highly-sensitive services to Iowa patients and the potential for patient harm is high without appropriate safeguards in place to protect against inappropriate practices.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that Iowans receive care from competent and safe practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between multiple discipline chapters that fall under the 645 umbrella. Repetitive language is being moved to one joint rules chapter. The revised Psychology discipline chapter will be streamlined to only those items that are specific to the Psychology Board.

242.2(2) thru (32) – removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

242.1
242.3
242.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 242 DISCIPLINE FOR PSYCHOLOGISTS

645—242.1(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code Chapter 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13:

242.1 Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments effective January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association’s website at www.apa.org.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1485
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	3

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Board of Psychology	Date:	08/16/2023	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	243	Iowa Code Section Authorizing Rule:	154B
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides Iowans, licensees, and their employers with practice guidance and requirements relevant to the practice of psychologists. The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include: access to patient records, psychological testing, judicial proceedings, telepsychology, and record keeping.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as licensees are able to gather specific information regarding requirements for common practice issues. The guidance provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are often costs associated with licensee compliance with the practice standards outlined in this rule. Members of the public would have costs associated with the services they are seeking to receive. Each licensee’s practice has different variables; things such as number of clients seen, nature of services provided, how services are delivered (i.e., telehealth or in person), administrative support, etc. The Board does not have a mechanism for estimating what these total costs might be to the public or to the licensee for compliance with this rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc. An executive officer supports the work of this board at approximately 0.20 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

There are approximately 976 active licensees who provide mental health services to Iowans. The Board received 10 complaints against licensees in 2021 and 12 complaints in 2022. The Board initiated 1 public discipline action over this two-year period. The Board believes that the costs justify the benefits achieved because the rules provide clear guardrails for providing these important services to Iowa patients. If this profession were not regulated it could mean that Iowans who are receiving mental health services could be placed at risk. Psychology is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation such as registration or certification could be utilized to regulate the profession, however, the Board would have significant concerns with this approach. The professional standards articulated in these rules are consistent with national best practices and recognize the highly-sensitive nature of the services provided by psychologists. Reducing these standards would increase the potential for inappropriate or dangerous practices occurring in Iowa.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 243.1 – Removed unnecessary language
- 243.2 – Removed restrictive language
- 243.3 – Removed unnecessary and restrictive language
- 243.4 - Removed unnecessary and restrictive language
- 243.5 – Removed restrictive language
- 243.7 – Removed restrictive language
- 243.8 – Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

243.6

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 243 PRACTICE OF PSYCHOLOGY

645—243.1(154B) Definitions.

“APA” means the American Psychological Association.

“Clinical records” means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

“Examinee” means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

“Licensee” or “licensed” means an individual with an active license to practice psychology, including a provisional

license, or a certificate of exemption issued by the board.

“Patient” means an individual under the care of a licensee in a clinical role and is synonymous with the term client.

“Personal representative” means a person authorized to act on behalf of the patient in making health care-related decisions such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

“Psychotherapy notes” means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient’s clinical records. Psychotherapy notes excludes medication prescription monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

“Telepsychology” means the provision of psychological services using telecommunication technologies.

“Test data” means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

“Test materials” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

645—243.2(147,154B,272C) Purpose and scope. The purpose of this chapter is to set the minimum standards of practice for licensees practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Licensees will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in rule 645—240.9(154B). The APA Code of Ethics is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A licensee may be disciplined for any violation of this chapter or the APA Code of Ethics.

645—243.3(154B) Access to records.

243.3(1) Clinical records generally. When records are requested along with a signed release from the patient or the patient’s personal representative, a licensee will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA.

243.3(2) Psychotherapy notes. A licensee is not required to release psychotherapy notes in response to a signed release, if a licensee chooses to release psychotherapy notes a signed release specifically authorizing the release of those notes will be provided.

243.3(3) Substance use disorder treatment programs. Licensees who practice in a federally assisted substance use disorder treatment program, also known as a part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with part 2 requirements.

243.3(4) Clinical records of minor patients. A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee is not required to release the clinical records of a minor patient to the minor’s personal representative if releasing such records is not in the minor’s best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

243.3(5) Clinical records of deceased patients. A licensee will provide the clinical records of a deceased patient to the deceased patient’s executor upon a written request accompanied by a copy of the patient’s death certificate and a copy of the legal document identifying the requestor as the patient’s executor.

243.3(6) Forensic records. A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology.

243.3(7) Board. A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

243.3(8) Exceptions. These rules don’t apply when there is a legal basis for not disclosing requested information.

645—243.4(154B) Psychological testing. A licensee may administer psychological tests and assessments to a patient or examinee if the licensee has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

243.4(1) Use of proctors. A licensee may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The licensee is responsible for supervising any proctors.

243.4(2) Release of test data. A licensee will not provide test data to any person, with the exception that the test data with proper written release, may be disclosed to a licensed psychologist designated by the patient or examinee. A psychologist who receives test data in this manner may not further disseminate the test data.

243.4(3) Release of test materials. A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

645—243.5(154B) Judicial proceedings. Prior to participating in a judicial proceeding, a licensee will become familiar with the rules governing the proceeding. A licensee will understand and clearly identify the licensee’s role in the proceeding.

243.5(1) Licensure. A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

243.5(2) Custody evaluations. A licensee who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings.

645—243.6(154B) Telepsychology. A psychologist may practice telepsychology provided the following are met:

243.6(1) The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

243.6(2) Prior to initiating telepsychology with a new patient or examinee, a licensee will take reasonable steps to verify the identity and location of the patient or examinee.

243.6(3) A licensee will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

243.6(4) A licensee will gain competency in the use of a particular technology prior to utilizing it in practice. A licensee shall only use technologies that are secure and functioning properly.

243.6(5) A licensee will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a licensee will not utilize telepsychology.

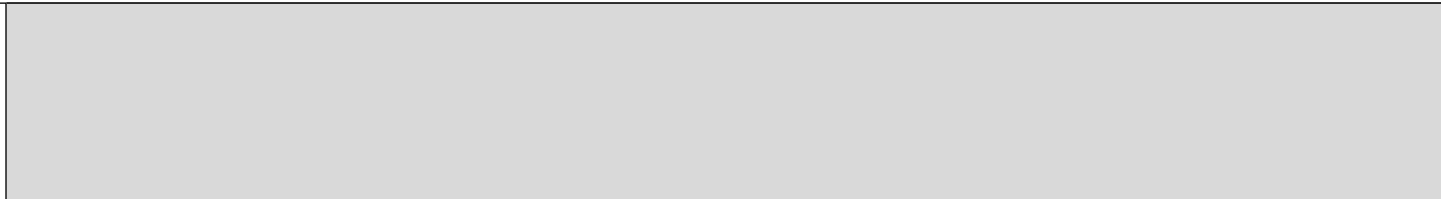
645—243.7(154B) Records. A licensee will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	248
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	19

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?



Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Psychology	Date:	08/28/2023	Total Rule Count:	13
IAC #:	645	Chapter/ SubChapter/ Rule(s):	244	Iowa Code Section Authorizing Rule:	154B
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule lays out the minimum standards for education and practice of psychologists with a conditional prescribing certificate and psychologists with a prescribing certificate. Members of the public, licensees, training programs, and employers benefit from having a clear understanding of the minimum standards for appropriate training and practice in our state. Requirements include the application process, minimum educational qualifications, and supervision requirements.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit of the rule is being achieved as appropriate minimum standards for safe practice are clearly being articulated as a means of protecting patient safety. This rule was jointly drafted with the Board of Medicine to comply with the statutory directives in Iowa Code chapter 154B.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, however, there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below cost of licensure in Iowa:

Education: Postdoctoral clinical psychopharmacology masters degree
Application fee: \$270 (Please note application fees are addressed in IAC 645 – 5.)

Prescribing psychologists are licensed in Guam, New Mexico, Louisiana, Idaho, Illinois, and Colorado.

Application fee for Guam is \$125, New Mexico is \$125, Louisiana is \$275, Idaho is \$250, and Illinois is \$150. Colorado has just passed legislation to license prescribing psychologists; no fee information is available at this time.

Iowa's initial licensure application process is similar to those implemented by other state boards.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .20 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners. This is especially important given the high-sensitive nature of the psychotropic medications that these licensees are allowed to prescribe once they have complied with these rules and statute.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive means of regulating psychologist prescribing. The professional standards articulated in these rules are consistent with those established by the handful of other states who license this practice and recognize the highly sensitive nature of the services being provided. These standards could be reduced; however, the Board would have concerns that doing so would increase the potential for inappropriate or dangerous practices occurring in Iowa.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 244.1 – Removed outdated language
- 244.3 – Removed outdated language
- 244.6 – Removed outdated language
- 244.7 – Removed outdated language
- 244.8 – Removed outdated language

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 244 PRESCRIBING PSYCHOLOGISTS

645—244.1(148,154B) Definitions—joint rule.

“APA” means the American Psychological Association.

“Applicant” means a psychologist applying for a conditional prescription certificate.

“Board” means the Iowa board of psychology.

“Board of medicine” means the Iowa board of medicine.

“Collaborating physician” means a person who is licensed to practice medicine and surgery or osteopathic medicine in

Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who serves as a resource for a prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

"Conditional prescribing psychologist" means a person licensed to practice psychology in Iowa who holds an active conditional prescription certificate. This term does not include prescribing psychologists. "Conditional prescription certificate" means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication under the supervision of a supervising physician.

"CSA registration" means a Controlled Substance Act registration issued by the Iowa board of pharmacy authorizing a psychologist to possess and prescribe controlled substances.

"DEA registration" means a mid-level practitioner registration with the Drug Enforcement Administration authorizing a psychologist to possess and prescribe controlled substances.

"Joint rule" means a rule adopted by agreement of the board of psychology and the board of medicine through the joint rule-making process.

"Mental disorder" means a disorder which is defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or contained within the mental and behavioral disorders chapter of the most recent version of the International Classification of Diseases.

"Prescribing psychologist" means a person licensed to practice psychology in Iowa who holds an active prescription certificate. This term does not include conditional prescribing psychologists.

"Prescription certificate" means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication.

"Primary care physician" means a person licensed to practice medicine and surgery or osteopathic medicine in Iowa who is responsible for the ongoing medical care of a patient.

"Psychologist" means a person licensed to practice psychology in Iowa.

"Psychotropic medication" means a medication that shall not be dispensed or administered without a prescription and that has been explicitly approved by the federal Food and Drug Administration for the treatment of a mental disorder, as defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or the most recent version of the International Classification of Diseases.

"Psychotropic medication" does not include narcotics.

"Supervising physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who supervises a conditional prescribing psychologist. A supervising physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

"Training director" means an employee of the psychopharmacology training program who is primarily responsible for directing the training program.

"Training physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who provides training to a psychologist as part of the clinical experience and practicum described in rule 645—244.3(148,154B). A training physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A training physician shall be approved by the psychopharmacology training program.

645—244.2(154B) Conditional prescription certificate. A conditional prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders under supervision in accordance with the requirements of this chapter.

244.2(1) Application. Unless a basis for denial exists in accordance with rule 645—244.9(154B), the board shall issue a conditional prescription certificate to an applicant who satisfies the following requirements:

- a. Holds an active license to practice psychology in Iowa and an active health service provider certification issued by the board. Both the license and the health service provider certification must be in good standing.
- b. Meets the educational requirements set forth in rule 645—244.3(148,154B). Official academic transcripts

shall be sent directly from the school to the board.

- c. Submits a supervision plan in accordance with subrule 244.4(1).
- d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.
- e. Submits a completed application and a nonrefundable application fee of \$270.

244.2(2) Term. A conditional prescription certificate shall be valid for a period of four years from the date of issuance. The board shall not renew a conditional prescription certificate unless a conditional prescribing psychologist cannot complete the requirements of supervised practice within four years due to extenuating circumstances. A conditional prescribing psychologist may request an extension of a conditional prescription certificate when extenuating circumstances exist to provide additional time for the requirements of supervised practice to be met.

645—244.3(148,154B) Educational requirements for conditional prescription certificate—joint rule. An applicant for a conditional prescription certificate shall have completed a program of study designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The program must have included didactic instruction, a clinical experience, and a practicum satisfying the requirements of this rule. A minimum of 40 hours of basic training on clinical assessment skills shall be included as part of the program's didactic instruction.

244.3(1) Degree. An applicant shall possess a postdoctoral master of science degree in clinical psychopharmacology from a program designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The degree program must be a minimum of 30 credit hours not including the practicum and shall include coursework in basic science, neuroscience, clinical medicine, pathological basis of disease, clinical pharmacology, psychopharmacology, and professional, ethical and legal issues. A minimum of one-third of the coursework must be completed in a live interactive format. A program must be designated by the APA at the time the degree is conferred.

244.3(2) Clinical experience. An applicant shall have completed a clinical experience in accordance with the requirements of this subrule. During the clinical experience, a psychologist shall learn clinical assessment techniques and pathophysiology through direct observation and hands-on training with a training physician. During the clinical experience, a psychologist shall become competent in health history interviews, physical examinations, and neurological examinations with a medically diverse patient population. The clinical experience must be associated with the psychopharmacology training program from which the psychologist obtained the postdoctoral master of science degree in clinical psychopharmacology.

a. Scope. At the beginning of the clinical experience, the psychologist shall directly observe the training physician performing clinical assessments of patients. After the training physician determines the psychologist has gained sufficient knowledge, the clinical experience shall transition to the psychologist's performance of clinical assessments of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may perform clinical assessments of patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients and is reviewing all medical records. A psychologist and a training physician shall have ongoing discussions regarding the psychologist's clinical assessment skills and progress in the clinical experience.

b. Minimum experience. The clinical experience shall consist of a minimum of 600 patient encounters that shall be completed by the end of the practicum.

c. Conflict of interest. A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

d. Milestones. To satisfactorily complete the clinical experience, a psychologist shall demonstrate competency in each of the following:

(1) Perform a health history interview to obtain pertinent information regarding a patient's chief complaint, history of the present illness, past medical and surgical history, family history, allergies, medications, and psychosocial history. The psychologist shall perform a review of systems to elicit a health history and shall appropriately document the health history.

(2) Perform a physical examination in a logical sequence, ensuring appropriate positioning of the patient, proper patient draping, and proper application of the principles of asepsis throughout the examination. The psychologist

shall verbalize and assess the components of a general survey and be able to accurately assess all of the following: vital signs, including pulse, respiration, and blood pressure; skin, hair and nails; head, face and neck; eyes; ears, nose, mouth and throat; thorax, lungs and axillae; heart; peripheral vascular system; abdomen; and musculoskeletal system. The psychologist shall be proficient in utilizing any equipment needed to conduct a physical examination.

(3) Complete a neurological examination demonstrating knowledge of the history related to the neurological system and the ability to assess the following: mental status, cranial nerves, motor system, sensory system, and reflexes. The psychologist shall differentiate normal laboratory values from abnormal laboratory values and correlate abnormal laboratory values with impaired physiological systems. The psychologist shall identify adverse drug reactions and identify laboratory data and physical signs indicating an adverse drug reaction.

e. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the clinical experience. The psychologist shall provide sufficient information regarding the expectations and requirements of the clinical experience to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

f. Training documentation. The psychologist and the training director shall maintain documentation accounting for all clinical experience patient encounters, including the dates, times, and locations of all clinical experience patient encounters, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

g. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the applicant has successfully completed the minimum number of clinical experience patient encounters required and demonstrated competence in clinical assessment techniques and pathophysiology through completion of the milestones defined in these rules.

244.3(3) Practicum. An applicant shall have completed a practicum in accordance with the requirements of this subrule. During the practicum, a psychologist shall develop competencies in evaluating and treating patients with mental disorders through pharmacological intervention via observation and active participation. The practicum must be associated with the psychopharmacology training program from which the applicant obtained the postdoctoral master of science degree in clinical psychopharmacology and must be completed in a period of time not less than six months and not more than three years.

a. Scope. At the beginning of the practicum, the psychologist shall directly observe the training physician evaluating and treating patients with mental disorders. After the training physician determines the psychologist has gained sufficient knowledge, the practicum shall transition to the psychologist's evaluation and treatment of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may evaluate and treat patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients, has personal contact with the patient at each visit, and is reviewing all pertinent medical records. During the practicum, the training physician shall make all final treatment decisions, with consultation from the psychologist prior to making a final determination regarding the psychopharmacological treatment of a patient.

b. Minimum number of hours. A practicum shall consist of a minimum of 400 hours. Only hours spent face to face evaluating and treating patients with mental disorders and hours spent discussing treatment plans with a training physician may count as practicum hours. Time spent by the psychologist providing services that are within the scope of practice of a licensed psychologist, such as psychological examinations and psychotherapy, shall not be counted as practicum hours.

c. Minimum number of patients. A psychologist shall see a minimum of 100 individual patients throughout the practicum. A patient can be counted toward this requirement if the patient has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. Over the course of the practicum, the psychologist shall observe, evaluate, and treat patients encompassing a range of ages and a variety of psychiatric diagnoses.

d. Settings. At least 100 hours of the 400 hours must be completed in a psychiatric setting. At least 100 hours of the 400 hours must be completed in a primary care or community mental health setting.

e. Conflict of interest. A training physician shall not be an employee of the psychologist or otherwise have a

conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

f. Milestones. To successfully complete the practicum, a psychologist shall demonstrate competency in each of the following:

(1) Physical examination and mental status examination. The psychologist shall perform comprehensive and focused physical examinations and mental status evaluations, demonstrate proper use of instruments, and recognize variation associated with developmental stages and diversity.

(2) Review of systems. The psychologist shall integrate information learned from patient reports, signs, symptoms, and a review of each major body system, recognizing normal developmental variations.

(3) Medical history interview. The psychologist shall systematically conduct a patient clinical interview, producing a patient's medical, surgical, psychiatric, and medication history, as well as a family medical and psychiatric history, and be able to communicate the findings in written and verbal form.

(4) Assessment indications and interpretation. The psychologist shall order and interpret appropriate tests (e.g., psychometric, laboratory, and radiological) for the purpose of making a differential diagnosis and monitoring therapeutic and adverse effects of treatment.

(5) Differential diagnosis. The psychologist shall determine primary and alternate diagnoses using established diagnostic criteria.

(6) Integrated treatment planning. The psychologist shall identify and select, using all available data, the most appropriate treatment alternatives, including medication, psychosocial, and combined treatments, and sequence treatment within the larger biopsychosocial context.

(7) Consultation and collaboration. The psychologist shall understand the parameters of the role of a prescribing psychologist and work with other professionals, including a patient's primary care physician, in an advisory or collaborative manner to effectively treat a patient.

(8) Treatment management. The psychologist shall apply, monitor, and modify as needed the treatment of a patient and learn to write valid and complete prescriptions.

(9) Medical documentation. The psychologist shall demonstrate appropriate medical documentation for the patient-psychologist interaction to include subjective and objective assessment; mental status, physical examination findings, or both; formulation; diagnostic impression; and comprehensive treatment plan.

g. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the practicum. The psychologist shall provide sufficient information regarding the expectations and requirements of the practicum to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

h. Training documentation. The psychologist and the training director shall maintain documentation regarding all patients observed, evaluated, and treated by the psychologist as part of the practicum. The documentation shall clearly identify the training physician for each patient. The psychologist and the training director shall maintain documentation of all practicum hours, including the dates, times, and locations of all practicum hours, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

i. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the psychologist has successfully completed the minimum number of practicum hours, treated the minimum number of patients, and demonstrated competence in the evaluation and treatment of patients with mental disorders through pharmacological intervention through completion of the milestones defined in these rules.

244.3(4) Examination. A psychologist shall pass the Psychopharmacology Examination for Psychologists (PEP) administered by the APA Practice Organization's College of Professional Psychology or by the Association of State and Provincial Psychology Boards. The passing score utilized by the board shall be the passing score recommended by the test administrator. The examination score shall be sent directly from the testing service to the board.

645—244.4(148,154B) Supervised practice as a conditional prescribing psychologist—joint rule. A conditional prescribing psychologist shall complete a minimum of two years of supervised practice in prescribing psychotropic medications to patients with mental disorders in accordance with this rule to be eligible to apply for a prescription

certificate.

244.4(1) Supervision plan. Prior to issuing a conditional prescription certificate, the board shall review and approve the proposed supervision plan.

a. The proposed supervision plan must include the following:

- (1) Conditional prescribing psychologist information. The plan must include the name, license number, address, telephone number, and email address of the supervisee.
- (2) Supervising physician information. The plan must include the name, license number, date of licensure, area of specialization, address, telephone number, and email address of each supervising physician.
- (3) Primary supervising physician. The plan must include a designation of the primary supervising physician.
- (4) Period of supervision. The plan must include the beginning date of the supervision plan and estimated date of completion.
- (5) Locations and settings. The plan must include a description of the locations and settings where and with whom supervision will occur.
- (6) Scope of practice. The plan must include a description of the scope of practice of the conditional prescribing psychologist, including any limitations on the types of psychotropic medications that may be prescribed and the patient populations to which a prescription may be issued and including the expectations and responsibilities of the supervising physician.
- (7) Release of information. The plan must include a provision requiring the conditional prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the conditional prescribing psychologist to share the patient's health information with the supervising physician.
- (8) Consultation between the conditional prescribing psychologist and the supervising physician. The plan must include a provision requiring that the conditional prescribing psychologist consult with the supervising physician on a regular basis regarding a patient's psychotropic treatment plan and any potential complications. A conditional prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician objects on the basis of a contraindication.
- (9) Consultation between the supervising physician and the primary care physician. The plan must include a provision requiring that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.
- (10) Termination of the supervision plan. The plan must include a description of how the supervision plan may be terminated and the process for notifying affected patients.
- (11) Signatures. The plan must include signatures of the psychologist and all supervising physicians.

b. A conditional prescribing psychologist shall inform the board of any amendments to the conditional prescribing psychologist's supervision plan, including the addition of any supervising physicians, within 30 days of the change. Amendments to a supervision plan are subject to board approval.

c. The board shall transmit all approved supervision plans and approved amendments to the board of medicine.

244.4(2) Responsibilities of a supervising physician. A supervising physician shall provide supervision in accordance with rules established by the board of medicine.

244.4(3) Responsibilities of a conditional prescribing psychologist. At the initial contact, a conditional prescribing psychologist shall inform a patient, or a patient's legal guardian when appropriate, that the conditional prescribing psychologist is practicing under the supervision of a physician for purposes of prescribing psychotropic medication and shall provide the name of the supervising physician. A conditional prescribing psychologist shall provide sufficient information regarding the supervision requirements to obtain informed consent and appropriate releases. Upon request, a conditional prescribing psychologist shall provide additional information regarding the conditional prescribing psychologist's education, training, or experience with respect to prescribing psychotropic medications.

244.4(4) Specialization. A conditional prescribing psychologist shall complete the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

a. Children. To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A pediatric practice,
- (2) A child and adolescent practice, or
- (3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

b. Elderly patients. To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A geriatric practice, or
- (2) A general practice with patients across the lifespan including patients who are over 65 years of age.

c. Serious medical conditions. To prescribe to patients with serious medical conditions including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, a conditional prescribing psychologist shall complete at least one year prescribing psychotropic medications to patients with serious medical conditions.

244.4(5) Completion of supervised practice. A conditional prescribing psychologist shall see a minimum of 300 patients over a minimum of two years to complete the supervised practice period, provided each of the 300 patients has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. A conditional prescribing psychologist shall treat a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

a. At the conclusion of the supervised practice period, a primary supervising physician shall certify the following:

- (1) Supervision was provided in accordance with rules established by the board of medicine.
- (2) A conditional prescribing psychologist has successfully completed two years of supervised practice, considered at least 300 patients for psychopharmacological intervention, and treated at least 100 patients with psychotropic medications.
- (3) A conditional prescribing psychologist intending to specialize in the psychological care of children or elderly persons, or persons with serious medical conditions, has completed the requirements of subrule 244.4(4).
- (4) A conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by demonstrating competency in the milestones listed in paragraph 244.3(3)“f” sufficient to obtain a prescription certificate.

b. If a conditional prescribing psychologist is unable to successfully complete the supervised practice period prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested. Any requests for extension must be submitted to and approved by both the board and the board of medicine.

645—244.5(154B) Prescription certificate. A prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders in accordance with the requirements of this chapter.

244.5(1) Application. Unless a basis for denial exists in accordance with rule 645—244.9(154B), the board shall issue a prescription certificate to a conditional prescribing psychologist who satisfies the following requirements:

- a. Holds an active license to practice psychology in Iowa, an active health service provider certification issued by the board, and an active conditional prescription certificate. The license, certification, and certificate must all be in good standing.
- b. Submits documentation regarding successful completion of the supervised practice period.
- c. Submits a collaborative practice agreement in accordance with rule 645—244.8(148,154B).
- d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.
- e. Submits a completed application and a nonrefundable application fee of \$60.

244.5(2) Initial term and renewal. An initial prescription certificate shall be valid through the current expiration date of the applicant’s psychologist license. Thereafter, a prescription certificate shall be renewed biennially concurrent with the renewal of the psychologist license. A prescribing psychologist may renew a prescription certificate by submitting a completed renewal application and a nonrefundable application fee of \$60. A prescribing psychologist is responsible for renewing the prescription certificate prior to its expiration.

244.5(3) Continuing education required. A prescribing psychologist shall complete a minimum of 20 hours of continuing education in psychopharmacology each year. A total of 40 hours of continuing education in psychopharmacology is required to renew a prescription certificate. These hours are separate from, and in addition to, the continuing education hours needed to renew a psychologist license pursuant to 645—Chapter 241. If a psychologist specializes in treating children, a minimum of 10 hours of continuing education in psychopharmacology each year, for a total of 20 hours of continuing education per renewal period, must be directly related to prescribing psychotropic medication to children.

244.5(4) Late renewal. A prescription certificate shall become late when it has not been renewed prior to the expiration date. To renew a late prescription certificate, a prescribing psychologist shall complete the renewal requirements and submit a late fee of \$60 within 30 days following the prescription certificate expiration date. A prescribing psychologist who fails to renew a prescription certificate within 30 days following the prescription certificate expiration date shall have an inactive prescription certificate. A psychologist whose prescription certificate is inactive continues to hold the privilege of certification in Iowa but may not prescribe psychotropic medications until the prescription certificate is reactivated.

244.5(5) Reactivation. To apply for reactivation of an inactive prescription certificate, a psychologist shall submit a completed reactivation application, a nonrefundable fee of \$60, and documentation of a minimum of 40 hours of continuing education in psychopharmacology taken within the preceding two years. If a prescription certificate has been inactive for more than five years, a psychologist shall demonstrate competence in psychopharmacology through one of the following means:

- a. Practiced as a prescribing psychologist in another jurisdiction in the preceding two years.
- b. Completed a period of supervised practice for a minimum of 12 months. The board may issue a conditional prescription certificate to complete a supervised practice period for purposes of prescription certificate reactivation.

645—244.6(148,154B) Prescribing—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall comply with all prescription requirements described in 657—subrule 8.19(1). The following limits apply to a psychologist’s prescriptive authority:

1. A psychologist shall only prescribe psychotropic medications for the treatment of mental disorders.
2. A psychologist shall only prescribe psychotropic medications in situations where the psychologist has adequate education and training to safely prescribe.
3. A prescription shall identify the prescriber as a “psychologist certified to prescribe” and shall include the Iowa license number of the psychologist.
4. A prescription issued by a conditional prescribing psychologist shall contain the name of the supervising physician overseeing the care of the patient.
5. A psychologist shall not delegate prescriptive authority to any other person.
6. A psychologist is prohibited from prescribing narcotics as defined in Iowa Code section 124.101.
7. A psychologist shall maintain an active DEA registration and an active CSA registration in order to dispense, prescribe, or administer controlled substances.
8. A psychologist shall not self-prescribe nor prescribe to any person who is a member of the psychologist’s immediate family or household.
9. Before prescribing a psychotropic medication that is classified as a controlled substance, a psychologist shall check the patient’s prescriptive profile using the Iowa prescription monitoring program.
10. To prescribe to a patient who is pregnant or lactating, a psychologist shall consult with the patient’s obstetrician-gynecologist or the physician managing the patient’s pregnancy or postpartum care regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication to a patient if the patient’s obstetrician-gynecologist or the physician managing care objects on the basis of a contraindication.
11. To prescribe to a patient who has a serious medical condition, including but not limited to heart disease, kidney disease, liver disease, cancer, stroke, seizures, or comorbid psychological conditions, or to a patient who has a developmental or intellectual disability, a psychologist shall consult with the physician who is managing the comorbid condition for that patient regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication if the patient’s physician objects on the basis of a contraindication.

12. A psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician or collaborating primary care provider objects on the basis of a contraindication.

645—244.7(148,154B) Consultation with primary care providers—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall maintain a cooperative relationship with the primary care provider who oversees a patient’s general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient’s medical conditions, and significant changes in the patient’s medical or psychological condition are discussed.

244.7(1) Requirement for a primary care provider. A patient must have a designated primary care provider in order for a psychologist to have the ability to prescribe psychotropic medications to the patient. If a patient does not have a designated primary care provider, a psychologist shall refer the patient to a primary care provider prior to prescribing psychotropic medications to the patient. A psychologist shall not prescribe psychotropic medications to a patient until the patient has established care with a primary care provider.

244.7(2) Requirement for a release. A psychologist shall obtain a release of information from the patient, or the patient’s legal guardian when appropriate, authorizing the sharing of the patient’s health information between the psychologist and the patient’s primary care provider. A psychologist shall not prescribe psychotropic medications to a patient who refuses to sign a release.

244.7(3) Cooperation and consultation with primary care provider. A psychologist shall contact each patient’s primary care provider on at least a quarterly basis and shall contact the primary care provider to relay information regarding the care of a patient whenever the following occur:

- a. A psychologist is considering adding a new psychotropic medication to a patient’s medication regimen. A psychologist shall not prescribe a new psychotropic medication if the patient’s primary care provider objects on the basis of a contraindication.
- b. A psychologist is discontinuing or changing the dosage of a psychotropic medication.
- c. A patient experiences adverse effects from any medication prescribed by the psychologist that may be related to the patient’s medical condition.
- d. A psychologist receives the results of laboratory tests related to the medical care of a patient.
- e. A psychologist notes a change in a patient’s mental condition that may affect the patient’s medical treatment.

645—244.8(148,154B) Collaborative practice—joint rule.

244.8(1) A prescribing psychologist shall have one or more collaborating physicians at all times, as evidenced by a current collaborative practice agreement. Prior to executing a collaborative practice agreement, a prescribing psychologist and a collaborating physician shall review and discuss each other’s relevant education, training, experience, and competencies to determine whether a collaborative practice is appropriate and to facilitate drafting a suitable collaborative practice agreement. A collaborative relationship between a prescribing psychologist and a collaborating physician shall ensure patient safety and optimal clinical outcomes. Collaboration may be done in person or via electronic communication in accordance with these rules. A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time. A prescribing psychologist shall not prescribe without a current written collaborative practice agreement with a collaborating physician in place. All collaborative relationships shall be reviewed and evaluated on an annual basis to ensure that the prescribing psychologist is competent to safely prescribe psychotropic medications to patients and that the collaborating physician is providing appropriate feedback to the prescribing psychologist. A collaborative practice agreement shall establish the parameters of the collaborative practice that are mutually agreed upon by the prescribing psychologist and the collaborating physician and shall be reviewed on an annual basis.

244.8(2) A collaborative practice agreement shall include the following:

- a. Prescribing psychologist information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.
- b. Collaborating physician information. The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.

- c. Time period. The time period covered by the agreement.
- d. Locations and settings. The locations and settings where collaborative practice will occur.
- e. Collaboration. A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborating physician is available for timely collaboration with a prescribing psychologist, either in person or via electronic communication, in accordance with these rules.
- f. Scope of practice. The scope of practice agreed upon by the collaborating physician and the prescribing psychologist, as it relates to the prescribing psychologist's prescribing of psychotropic medications, including provisions to ensure that the prescribing psychologist's practice complies with all provisions of these rules.
- g. Clinical protocols, practice guidelines, and care plans. Clinical protocols, practice guidelines, and care plans relevant to the scope of practice authorized.
- h. Methods of communication. A description of how a prescribing psychologist and a collaborating physician may contact each other for consultation.
- i. Limitations on psychotropic medications. A description of any limitations on the range of psychotropic medications the prescribing psychologist may prescribe. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only prescribes psychotropic medications that are consistent with the prescribing psychologist's education, training, experience, and competence.
- j. Limitations on patient populations. A description of any limitations on the types of populations that the prescribing psychologist may treat with psychotropic medications. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only provides psychopharmacology services to patient populations that are within the prescribing psychologist's education, training, experience, and competence.
- k. Release of information. A provision requiring the prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the prescribing psychologist to share the patient's health information with the collaborating physician.
- l. Chart review. A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborative physician personally reviews and documents review of at least 10 percent of the prescribing psychologist's patient charts on a quarterly basis in each of the following categories:
 - (1) Juvenile patients,
 - (2) Pregnant or lactating patients,
 - (3) Elderly patients,
 - (4) Patients with serious medical conditions, and
 - (5) All other patients.
- m. Annual review. A provision requiring an annual review and evaluation of the collaborative relationship and the collaborative practice agreement.
- n. Consultation between the prescribing psychologist and the collaborating physician. A provision requiring that the prescribing psychologist consult with the collaborating physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications. A prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the collaborating physician objects on the basis of a contraindication.
- o. Consultation between the collaborating physician and the primary care physician provider. A provision requiring that the collaborating physician consult with the patient's primary care physician provider on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.
- p. Termination. A provision describing how the agreement can be terminated and the process for notifying affected patients if there will be an interruption in services.
- q. Signatures. Signatures of the prescribing psychologist and all collaborating physicians.

645—244.9(154B) Grounds for discipline. The board may deny, suspend, revoke, or impose other discipline as outlined in rule 645—13(147,272C) against a psychologist who holds a conditional prescription certificate or prescription certificate for any of the following:

- 244.9(1) Violating any of the grounds for discipline set forth in rule 645—242.2(147,272C).
- 244.9(2) The inability to safely prescribe psychotropic medications.
- 244.9(3) Prescribing medications in violation of rule 645—244.6(148,154B).
- 244.9(4) Repeatedly failing to cooperate and collaborate with primary care physicians.
- 244.9(5) Prescribing psychotropic medications without a current written collaborative practice agreement.
- 244.9(6) Failing to maintain malpractice insurance that covers the prescribing of psychotropic medications.
- 244.9(7) Practicing outside the scope of a collaborative practice agreement.
- 244.9(8) Prescribing medications while the conditional prescription certificate or prescription certificate is inactive, or prescribing controlled substances while the DEA registration or CSA registration is not current.
- 244.9(9) Having a conditional prescription certificate or prescription certificate disciplined by the licensing authority of another state.
- 244.9(10) Having a license or health service provider certification disciplined by the board or the licensing authority of another state.

645—244.10(154B) List of psychologists. The board shall maintain a list of all current conditional prescribing psychologists and prescribing psychologists. The list shall be transmitted annually to the board of medicine.

244.10(1) Information. The list shall include the name of the psychologist, license number, license expiration date, expiration date of the conditional prescription certificate or prescription certificate, and practice locations.

244.10(2) Additions and deletions. When a psychologist is added or removed from the list, the board shall notify the board of medicine of the addition or deletion.

645—244.11(148,154B) Complaints—joint rule. Any complaint received by the board alleging a violation of this chapter shall be forwarded to the board of medicine. Any complaint received by the board of medicine alleging a violation of this chapter shall be forwarded to the board.

645—244.12(148,154B) Joint waiver—joint rule. Any rule identified as a joint rule may only be waived upon approval by both the board and the board of medicine.

645—244.13(148,154B) Amendment—joint rule. Any rule identified as a joint rule may only be amended by agreement of the board and board of medicine through a joint rule-making process.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	139
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	1

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	8
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 261	Iowa Code Section Authorizing Rule:	152B, 148G, 272C, 147, 17A
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the respiratory care and polysomnography professions. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa licensed **respiratory care practitioner** are:
 Education: Associates, undergraduate, or graduate degree
 Exam fee: \$190 or \$200 depending on exam
 Application fee: \$75 for the application and \$55 for the fingerprinting/background check (Please note application fees are addressed in IAC 645 – 5.)

In comparison, Nebraska requirements are below:
 Education: Associates, undergraduate, or graduate degree
 Exam fee: \$190 or \$200 depending on exam
 Application fee: \$118

Minnesota requirements are below:
 Education: Associates, undergraduate, or graduate degree
 Exam fee: \$190 or \$200 depending on exam
 Application fee: \$190

Iowa's initial licensure application process is similar to those implemented by other state boards of respiratory care. Licensure is required for respiratory care therapists in every state except Alaska.

Required education and licensure costs to become an Iowa licensed **polysomnography technologist** are:
Education: Certificate, associate's degree or undergraduate degree (As low as \$2,500 or as much as the cost of an undergraduate degree from a state or private institution.)

Application fee: \$75 for the application and \$55 for the fingerprinting/background check (Please note application fees are addressed in IAC 645 – 5.)

In comparison, North Dakota's requirements are below:

Education: Certificate, associate's degree or undergraduate degree

Application fee: \$80

Fingerprinting/background check: \$41.25 paid to the North Dakota Attorney General

Required education and licensure costs to become **dually licensed as a respiratory care therapist and polysomnography technologist** in Iowa are:

Education: Associates, undergraduate, or graduate degree

Application fee: \$90 for the application and \$55 for the fingerprinting/background check (Please note application fees are addressed in IAC 645 – 5.)

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly 0.20 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license these professions justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of respiratory care practitioners and polysomnographic technologists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rule provides consistency related to the licensure of respiratory care practitioners and polysomnographic technologists in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

261.1: Removed redundant and obsolete language from the definitions

261.2: Replaced restrictive term with less restrictive alternative, combined to remove redundant language

261.3: Combined to remove redundant language, replaced restrictive terms with less restrictive alternatives

261.4: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

261.5: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

261.8: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

261.14: Replaced restrictive term with less restrictive alternative, combined to remove redundant language

RULES PROPOSED FOR REPEAL (list rule number[s]):

261.6 and 261.7 – already been rescinded

261.9 – 261.13 – already been rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 261

LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS
[Prior to 4/17/02, see 645—Chapter 260]

645—261.1(148G,152B) Definitions.

“Active license” means a license that is current and has not expired. “Board” means the board of respiratory care and polysomnography. “BRPT” means the Board of Registered Polysomnographic Technologists.

“CAAHEP” means the Commission on Accreditation of Allied Health Education Programs.

“CoARC” means the Commission on Accreditation for Respiratory Care.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Licensee” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

“License expiration date” means March 31 of even-numbered years.

“NBRC” means the National Board for Respiratory Care.

“Polysomnographic technologist” means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

“Reactivate” or *“reactivation”* means the process as outlined in rule [645—261.14](#)(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care and polysomnography to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in [645—11.31](#)(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—261.2(148G,152B) General requirements for licensure.

261.2(1) The following general criteria apply to licensure:

Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in 645-subrule 5.17.

a. Submit two completed sets of fingerprint cards to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) criminal history background checks is assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

b. Submit a release authorizing the background check.

c. Licensees who were issued their licenses within six months prior to the renewal do not need to renew their licenses until the renewal month two years later.

d. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed. Verification shall be sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) All disciplinary action taken against the license.

261.2(2) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

645—261.3(152B) Additional requirements for respiratory care practitioner licensure. The following are additional specific criteria for licensure as a respiratory care practitioner:

261.3(1) Successful completion of a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

261.3(2) Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service,; or International Credentialing Associates, Inc... The professional curriculum must be equivalent to that stated in these rules. The candidate bears the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

261.3(3) The examination required by the board shall be the Therapist Multiple-Choice Examination or the Certified Respiratory Therapist Examination administered by the NBRC. A score on the examination which meets or exceeds the

minimum passing score established by the NBRC is required.

261.3(4)

261.3(5) Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

- a.* Scores are sent directly from the examination service to the board;
- b.* A copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or
- c.* A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.

645—261.4(148G,152B) Additional requirements for polysomnographic technologist licensure. The following are additional specific criteria for licensure as a polysomnographic technologist:

261.4(1) Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

261.4(2) Graduation from an entry into respiratory care professional practice program accredited by CoARC or CAAHEP for which a transcript is submitted to the board office directly from the college or university; and direct-source verification of one of the following:

- a.* Completion of a sleep specialist program option accredited by CoARC or CAAHEP, or
- b.* Obtaining the sleep disorder specialist credential from the NBRC, or
- c.* Obtaining the registered polysomnographic technologist credential from the BRPT; or

261.4(3) Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP with the transcript sent directly to the board from the college or university; or

261.4(4) Requirements for current Iowa licensees holding a license in a profession other than polysomnography. An individual who holds an active license under Iowa Code section [147.2](#) in a profession other than polysomnography and whose license is in good standing with the board for that profession may receive licensure upon verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

261.4(6) Foreign-trained polysomnographic technologists shall:

- a.* Provide an equivalency evaluation of their educational credentials by either of the following:
 - (1) International Educational Research Foundations, Inc., Credentials Evaluation Service, or International Credentialing Associates, Inc.
 - . The candidate bears the expense of the curriculum evaluation.
 - b.* Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.
 - c.* Receive a final determination from the board regarding the application for licensure.

261.4(7) Licensure by proof of work experience. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule [645—19.2\(272C\)](#).

261.4(8) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule [645—19.1\(272C\)](#).

645—261.5(148G,152B) Requirements for dual licensure. The following are additional specific criteria for licensure as a respiratory care and polysomnography practitioner. An applicant for licensure as a respiratory care and polysomnography practitioner shall meet the requirements of 261.5(1) and 261.5(2).

261.5(1) The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

- a.* Foreign-trained practitioners shall:
 - (1) Provide an equivalency evaluation of their educational credentials by either of the following:
 1. International Educational Research Foundations, Inc., Credentials Evaluation Service, or International Credentialing Associates, Inc..

The professional curriculum must be equivalent to that stated in these rules. The candidate bears the expense of the

curriculum evaluation.

(2) Provide a copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.

(3) Receive a final determination from the board regarding the application for licensure.

b. Examination requirements. The examinations required by the board shall be the Therapist Multiple-Choice Examination administered by the NBRC and either the Sleep Disorders Specialist Examination (SDS) administered by the NBRC or the Registered Polysomnographic Technologist Examination administered by the BRPT. The minimum passing score established by the NBRC or BRPT is required.

(1) Results of the examinations must be received by the board of respiratory care and polysomnography by one of the following methods:

1. Scores are sent directly from the examination service to the board;

2. A copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC submitted to the board; or

3. A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC submitted to the board.

261.5(2) The applicant must also meet one of the following requirements:

a. Graduation from a polysomnographic educational program accredited by CAAHEP, with the transcript sent directly from the college or university to the board; or

b. Completion of a sleep specialist program option accredited by CoARC or CAAHEP with the transcript submitted to the board office directly from the college or university; and direct-source verification of one of the following:

(1) Completion of the curriculum for a polysomnographic certificate established and accredited by the CAAHEP as an extension of the respiratory care program, or

(2) Obtaining the sleep disorder specialist credential from the NBRC, or

(3) Obtaining the registered polysomnographic technologist credential from the BRPT; or

c. Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP, with the transcript submitted to the board office directly from the college or university; or

d. Hold an active license under Iowa Code section [147.2](#) in a profession other than polysomnography that is in good standing with the board for that profession and provide verification from the medical director of the applicant's current employer or the medical director's designee that the applicant has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography; or

645—261.6(148G,152B) License renewal.

261.6(1) The biennial license renewal period for a license begins on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

261.6(2) An individual who was issued an initial license within six months of the license renewal date do not need to renew the license until the subsequent renewal two years later.

261.6(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule [645—262.2\(148G,152B,272C\)](#) and the mandatory reporting requirements of subrule [261.8\(4\)](#). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

261.6(4) Mandatory reporter training requirements.

A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children and dependent adults in Iowa will complete the applicable department of health and human services' training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3)"b."

a. The requirement for mandatory training for identifying and reporting child and dependent adult abuse is suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in [645—Chapter 262](#).

b. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

261.6(5) Upon receiving the information and the fee, a two-year license will be administratively issued. In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

261.6(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

261.6(7) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in rule [645—5.17](#)(147,152B). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

261.6(8) Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section [147.83](#), criminal sanctions pursuant to Iowa Code section [147.86](#), and other available legal remedies.

645—261.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

261.7(1) Submit a reactivation application and pay the reactivation fee specified in rule 645-5.17.

261.7(2)

261.7(3) If the license has been inactive for two or more years, the licensee shall submit two completed fingerprint cards to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks is assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

261.7(4) Provide verification of current competence to practice by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of continuing education that conforms to standards defined in [645—262.3\(148G,152B,272C\)](#) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 24 hours of continuing education.
2. For polysomnographic technologists: 24 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 24 hours of continuing education of which at least 8 hours but no more than 12 hours shall be on sleep-related topics.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of continuing education that conforms to standards defined in [645—262.3\(148G,152B,272C\)](#) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 48 hours of continuing education.
2. For polysomnographic technologists: 48 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 48 hours of continuing education of which at least 16 hours but no more than 24 hours shall be on sleep-related topics.

645—261.8(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with [645—11.31\(272C\)](#) and must apply for and be granted reactivation of the license in accordance with [645—261.14\(17A,147,272C\)](#) prior to practicing in this state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	1106
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	43

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 262	Iowa Code Section Authorizing Rule:	152B, 148G, 272C, 147, 17A
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for respiratory care therapist and polysomnographic technologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that podiatrists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that respiratory care therapists and polysomnographic technologists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in evolving fields, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs but based on research estimates it to be around \$150.00 every two years for a licensee to meet these requirements. There are multiple entities which provide continuing education courses to licensees.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education

requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Iowa requires 24 hours of continuing education every two years for respiratory care therapists, which is fairly consistent with a review of surrounding states. Minnesota, Missouri, and Illinois also require 24 hours every two years, and Kansas requires 12 every year. Nebraska and South Dakota each require 20 hours every two years.

Iowa also requires 24 hours of continuing education every two years for polysomnographic technologists. North Dakota requires 10 hours every year.

Less restrictive alternatives would be to reduce or eliminate continuing education requirements for respiratory care therapists and polysomnography technologists. Representatives of the board reviewed the required hours and did not support reducing them.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

262.1: Removed redundant and obsolete language from the definitions

262.2: Replaced restrictive term with less restrictive alternative and removed redundant language

262.3: Replaced restrictive terms with less restrictive alternative

262.5: Replaced restrictive terms with less restrictive alternative

RULES PROPOSED FOR REPEAL (list rule number[s]):

262. 4 - already been rescinded

262.6 – Removed redundant language

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 262
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

[Prior to 4/17/02, see 645—Chapter 261]

645—262.1(148G,152B,272C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of respiratory care and polysomnography.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“License” means license to practice.

“Licensee” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

645—262.2(148G,152B,272C) Continuing education requirements.

262.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee will be required to complete continuing education that meets the requirements specified in rule 645—262.3(148G,152B,272C).

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education, with twelve of the 24 hours earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education, with twelve of the 24 hours of continuing education earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education, with twelve of the 24 hours of continuing education earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

262.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses.

Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. For each subsequent license renewal, the new licensee will be required to complete continuing education per biennium.

262.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

262.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

262.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—262.3(148G,152B,272C) Standards.

262.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

262.3(2) Specific criteria. Continuing education hours of credit may be obtained by:

- a. Programs/activities of a clinical nature related to the practice of respiratory care or polysomnography.
- b. Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.
- c. Academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:
 - 1 academic semester hour = 15 continuing education hours
 - 1 academic quarter hour = 10 continuing education hours
- d. The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS :

CERTIFICATIONS :

Advanced Cardiac Life Support	12 hours
Basic Cardiac Life Support—Instructor	8 hours
Basic Cardiac Life Support	6 hours
Neonatal Resuscitation	9 hours
Pediatric Advanced Life Support	14 hours
Mandatory Reporting	4 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours
Neonatal Pediatric Specialist	12 hours
Sleep Disorders Specialist	12 hours
Adult Critical Care Specialist	12 hours

RECERTIFICATIONS :

Advanced Cardiac Life Support	4 hours
Basic Cardiac Life Support	2 hours

Neonatal Resuscitation	3 hours
Pediatric Advanced Life Support	3 hours
Registered Respiratory Therapist	24 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours
Neonatal Pediatric Specialist	12 hours
Sleep Disorders Specialist	2 hours
Adult Critical Care Specialist	12 hours
Certified Respiratory Therapist	24 hours

e. A maximum of 6 hours of continuing education may be obtained by completing programs which enhance a supplemental or complementary skill set directly related to the practice of respiratory care or polysomnography. Content areas include but are not limited to record keeping, electronic medical records, geriatric care, mandatory reporter training, and ethics.

f. Unacceptable subject matter includes marketing, personal development, time management, human relations, collective bargaining and tours.

645—262.4(148G,152B,272C) Automatic exemption. A licensee is exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—262.5(148G,152B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

262.5(1) The board may grant an extension of time to fulfill the continuing education requirement.

262.5(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

262.5(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:

1

Proposed word count reduction after repeal and/or re-promulgation	375
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

NA

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Licensing	Date:	8/1/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 263	Iowa Code Section Authorizing Rule:	152B, 148G
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for respiratory care therapists and polysomnographic technologists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. There are no disciplinary grounds that are unique to the respiratory care and polysomnographic professions.

Is the benefit being achieved? Please provide evidence.

The Respiratory Care and Polysomnography Board receives a low number of complaints and issues a small number of discipline. In 2022 the Board received seven complaints and issued public discipline for one respiratory care practitioner. Respiratory care is a very small profession at approximately 1,845 licensed individuals, as is polysomnography with 150 licensees. Eighty-six individuals hold a dual license. While a low number of complaints can call into question the extent to which a profession needs to be regulated, these are health care professions that are technical in nature and require a high level of skill, so the Board believes that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1000.00, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to

manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.20 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practices of respiratory care and polysomnography require skill and precision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between multiple discipline chapters that fall under the 645 umbrella. Repetitive language is being moved to one joint rules chapter. This will eliminate the Respiratory Care and Polysomnography discipline chapter as there will be no items that are specific to this Board.

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 263.1 Definitions:** Removed duplicative language found in 645 Chapter 13
- 263.2 Grounds for Discipline:** Removed duplicative language found in 645 Chapter 13
- 263.3 Method of Discipline:** Removed duplicative language found in 645 Chapter 13
- 263.4 Discretion of board:** Removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

N/A

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1653
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	5
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 265	Iowa Code Section Authorizing Rule:	154A, 272C, 147, 17A
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with definitions relevant to the practice of respiratory care and polysomnography, including the code of ethics, guidance on intravenous administration and the setup and delivery of respiratory care equipment, the role of students, requirements for the location of the practice of polysomnography, and services provided by each profession. This rule articulates practice standards and provides a scope of practice for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are costs associated with practice standards, as there is often time, effort and money associated with compliance. There are costs for the professionals associated with the time required to review the code of ethics and practice standards. There are costs associated with supervising students and securing accredited sleep medicine laboratories or centers for the practice of polysomnography, as well as costs to the public associated with receiving these services, such as co-payment. Requirements for the set-up and delivery of respiratory care equipment may also include co-payment, as well as staff time and record keeping. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc.. An executive officer supports the work of this board at approximately 0.20 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

These are small professions. There are approximately 1,845 respiratory care therapists, 150 polysomnographic technologists, and 86 dual licensed individuals who provide these services to lowans. In 2022 there was a total of seven complaints submitted to the board and public discipline was issued for one respiratory care therapist. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing these important services to lowans. If these professions were not regulated it could mean that lower skilled individuals would provide these services to lowans, which would be of concern to the Board. Respiratory care is regulated in every US state with the exception of Alaska. Approximately 37 states have regulatory or statutory requirements for polysomnography.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation could be viable, such as a registration. That said respiratory care is regulated in every US state except Alaska and approximately 37 states have regulatory or statutory requirements for polysomnography.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 265.2 Replaced restrictive terms with less restrictive alternatives
- 265.3 Clarified language
- 265.4 Replaced restrictive terms with less restrictive alternatives
- 265.6 Replaced restrictive terms with less restrictive alternatives
- 265.7 Replaced restrictive terms with less restrictive alternatives
- 265.8 Replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	69
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

CHAPTER 265
PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC
TECHNOLOGISTS

645—265.1(148G,152B,272C) Definitions.

“Board” means the board of respiratory care and polysomnography.

“Direct supervision” means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

“General supervision” means that the polysomnographic procedure is provided under a physician’s or qualified health care professional prescriber’s overall direction and control, but the physician’s or qualified health care professional prescriber’s presence is not required during the performance of the procedure.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery and who is board certified and who is actively involved in the sleep medicine center or laboratory.

“Polysomnographic student” means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as part of the person’s education program.

“Polysomnographic technician” means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to 30 days following graduation while awaiting credentialing examination scheduling and results.

645—265.2(148G,152B,272C) Code of ethics.

265.2(1) The respiratory care practitioner or polysomnographic technologist will practice acceptable methods of treatment and will not practice beyond the competence or exceed the authority vested in the practitioner or technologist by physicians.

265.2(2) The respiratory care practitioner or polysomnographic technologist will continually strive to increase and improve knowledge and skill and will render to each patient the full measure of the practitioner’s or technologist’s ability. All services will be provided with respect for the dignity of the patient, regardless of the patient’s social or economic status or personal attributes or the nature of the patient’s health problems.

265.2(3) The respiratory care practitioner or polysomnographic technologist is responsible for the competent and efficient performance of assigned duties and will expose incompetent, illegal or unethical conduct of members of the profession.

265.2(4) The respiratory care practitioner or polysomnographic technologist will hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient’s physician.

265.2(5) The respiratory care practitioner or polysomnographic technologist will not accept gratuities and shall guard against conflict of interest.

265.2(6) The respiratory care practitioner or polysomnographic technologist will uphold the dignity and honor of the profession and abide by its ethical principles.

265.2(7) The respiratory care practitioner or polysomnographic technologist will have knowledge of existing state and federal laws governing the practice of respiratory therapy or polysomnography and will comply with those laws.

265.2(8) The respiratory care practitioner or polysomnographic technologist will cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

645—265.3(152B,272C) Intravenous administration. Starting an intravenous line or administering intravenous medications is outside the scope of practice of a licensed respiratory care practitioner. However, this rule does not preclude a licensed respiratory care practitioner from performing intravenous administration under the auspices of the employing agency if formal training is acquired and documented.

645—265.4(152B,272C) Setup and delivery of respiratory care equipment.

265.4(1) Unlicensed personnel may deliver, set up, and test the operation of respiratory care equipment for a patient but may not perform any type of patient care. Instruction or demonstration of the equipment is limited to its mechanical operation (on and off switches, emergency button, cleaning, maintenance). Any instruction or demonstration to the patient regarding the clinical use of the equipment, the fitting of any device to the patient or making any adjustment, or any patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory therapist or other licensed health care provider allowed by Iowa law.

265.4(2) Respiratory care equipment includes but is not limited to:

- a. Positive airway pressure (continuous positive airway pressure and bi-level positive airway pressure) devices and supplies;
- b. Airway clearance devices;
- c. Invasive and noninvasive mechanical ventilation devices and supplies;
- d. Nasotracheal and tracheal suctioning devices and supplies;
- e. Apnea monitors and alarms and supplies;
- f. Tracheostomy care devices and supplies;
- g. Respiratory diagnostic testing devices and supplies, including but not limited to pulse oximetry, CO₂ monitoring, and spirometry devices and supplies; and
- h. Pulse-dose or demand-type oxygen conserving devices or any oxygen delivery systems beyond the capabilities of a simple mask or cannula or requiring particulate or molecular therapy in conjunction with oxygen.

645—265.5(152B,272C) Respiratory care as a practice. “Respiratory care as a practice” means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities that affect the pulmonary system and associated aspects of cardiopulmonary and other systems’ functions, and includes, but is not limited, to the following direct and indirect respiratory care services that are safe, of comfort, aseptic, preventative, and restorative to the patient:

1. Observing and monitoring signs and symptoms, general behavior, reactions, and general physical responses to respiratory care treatment and diagnostic testing.
2. Determining whether the signs, symptoms, behavior, reactions, or general responses exhibit abnormal characteristics.
3. Performing pulmonary diagnostic testing.
4. Analyzing blood gases and respiratory secretions.
5. Measuring and monitoring hemodynamic and physiologic function related to cardiopulmonary pathophysiology.
6. Performing diagnostic and testing techniques in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows; and collection of specimens of blood and from the respiratory tract.
7.
 - Medical gases, aerosols, and humidification, not including general anesthesia.
 - Lung expansion therapies.
 - Bronchopulmonary hygiene therapies.
 - Hyperbaric therapy.
 - Pharmacologic and therapeutic agents necessary to implement therapeutic, disease prevention, pulmonary rehabilitative, or diagnostic regimens prescribed by a licensed physician, surgeon, or other qualified health care professional prescriber.
8. Maintaining natural and artificial airways.
9. Without cutting tissues, inserting and maintaining artificial airways.

10. Initiating, monitoring, modifying and discontinuing invasive or noninvasive mechanical ventilation.
11. Performing basic and advanced cardiopulmonary resuscitation.
12. Performing invasive procedures that relate to respiratory care.
13. Implementing changes in treatment regimen based on observed abnormalities and respiratory care protocols to include appropriate reporting and referral.
14. Managing asthma, COPD, and other respiratory diseases.
15. Performing cardiopulmonary rehabilitation.
16. Instructing patients in respiratory care, functional training in self-care and home respiratory care management and promoting the maintenance of respiratory care fitness, health, and quality of life.
17. Performing those advanced practice procedures that are permitted within the policies of the employing institution and for which the respiratory care practitioner has documented training and demonstrated competence.
18. Managing the clinical delivery of respiratory care services through the ongoing supervision, teaching, and evaluation of respiratory care.
19. Transcribing and implementing a written, verbal, or telephonic order from a licensed physician, surgeon, or other qualified health care professional prescriber pertaining to the practice of respiratory care.

645—265.6(148G,272C) Practice of polysomnography.

265.6(1) The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

a. Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

(1) Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

(2) Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.

(3) Capnography during a polysomnogram.

(4) Cardiopulmonary resuscitation.

(5) Pulse oximetry.

(6) Gastroesophageal pH monitoring.

(7) Esophageal pressure monitoring.

(8) Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.

(9) Surface electromyography.

(10) Electrocardiography.

(11) Respiratory effort monitoring, including thoracic and abdominal movement.

(12) Plethysmography blood flow monitoring.

(13) Snore monitoring.

(14) Audio and video monitoring.

(15) Body movement monitoring.

(16) Nocturnal penile tumescence monitoring.

(17) Nasal and oral airflow monitoring.

(18) Body temperature monitoring.

b. Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

c. Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen

is warranted.

d. Analyzing and scoring data collected during the monitoring described in this subrule for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.

e. Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

f. Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

g. Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

265.6(2) Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience will give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to gain the experience to be eligible to sit for a national certification examination. A badge that appropriately identifies the person is to be worn while providing such services .

645—265.7(148G,152B,272C) Students.

265.7(1) A student who is enrolled in an approved respiratory care, sleep add-on, polysomnography training program, or electroneurodiagnostic program and is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G], under the direct and immediate supervision of a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner for the duration of the program, but not to exceed the duration of the program.

265.7(2) Direct and immediate supervision of a respiratory care or polysomnographic student means that the licensed respiratory care practitioner or polysomnographic technologist will :

- a.* Be continuously on site and present in the department or facility where the student is performing care;
- b.* Be immediately available to assist the person being supervised in the care being performed; and
- c.* Be responsible for care provided by students.

645—265.8(148G,272C) Location of polysomnography services. The practice of polysomnography is to take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under Iowa Code chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Social Work	Date:	8/1/2023	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	280	Iowa Code Section Authorizing Rule:	154C
Contact Name:	Tony Alden	Email:	Tony.alden@dia.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the social work profession. Iowa residents, licensees, and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a social worker in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are allowed to enter the profession in our state. The rule also satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below cost of licensure in Iowa:

Education: Undergraduate and graduate degree
 Exam fee: \$230 for the Bachelors or Masters exam, \$260 for the Clinical
 Application fee: \$120 for all three levels LBSW, LMSW, and LISW (Please note application fees are addressed in IAC 645 – 5.)

Education and Exam costs are the same for surrounding states as they also use the same exam and require the same educational requirements.

Application fee for Nebraska is \$125; Minnesota is \$75 if you’re a new graduate, \$115 if you’re a licensee from another state; Illinois is \$50; South Dakota is \$130 for LBSW, \$170 for LMSW, and \$210 for LISW; Kansas is \$150 for LBSW, \$200 for LMSW and LISW; and Missouri is \$70.

Iowa’s initial licensure application process is similar to those implemented by other state boards.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. It takes roughly .45 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the licensure of social workers. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans in that scenario. In addition, the rule provides consistency related to the licensure of social workers in other states, which makes obtaining licensure in multiple states simpler for applicants.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

280.1 – Removed duplicative, unnecessary, and outdated language

280.2 – Removed restrictive language

280.3 – Removed unnecessary and restrictive language. Added verification language.

280.4 – Removed duplicative, unnecessary, and restrictive language. Added an additional exam option.

280.5 – Removed duplicative, unnecessary, and restrictive language.

280.6 – Removed restrictive language. Added grandfather clause to maintain consistency.

280.9 - Removed duplicative, unnecessary, and restrictive language

280.14 – Removed unnecessary language

RULES PROPOSED FOR REPEAL (list rule number[s]):

280.7

280.8

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

SOCIAL WORKERS

CHAPTER 280 LICENSURE OF SOCIAL WORKERS

CHAPTER 281 CONTINUING EDUCATION FOR SOCIAL WORKERS CHAPTER

282 PRACTICE OF SOCIAL WORKERS

CHAPTER 283 DISCIPLINE FOR SOCIAL WORKERS

CHAPTER 280 LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASWB” means the Association of Social Work Boards.

“Board” means the board of social work.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“LBSW” means licensed bachelor social worker.

“Licensee” means any person licensed to practice as a social worker in the state of Iowa.

“License expiration date” means December 31 of even-numbered years.

“LISW” means licensed independent social worker.

“LMSW” means licensed master social worker.

“Mandatory reporter training” means the training requirements are found in Iowa Code section 232.69.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—280.14(17A,147,272C)

“Reinstatement” means the process as outlined in 645—11.31(272C)

645—280.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and is subject to regulation in Iowa.

645—280.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.3(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in 645-subrule 5.19.

280.3(2) No application will be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.4(5).

280.3(3) The applicant provides verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

280.3(4) The applicant will take the examination(s) provided in 645-280.4.

280.3(5) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.3(6) Incomplete applications that have been on file in the board office for more than two years will be:

- a.* Considered invalid and be destroyed; or
- b.* Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

280.3(7) In lieu of the requirements in subrules 280.3(2) and 280.3(3), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

645—280.4(154C) Written examination.

280.4(1) The applicant will take and pass the ASWB examination at the appropriate level as follows:

- a.* Bachelor level social worker—the basic level examination.
- b.* Master level social worker—the intermediate level examination.
- c.* Independent level social worker—the clinical level examination.

280.4(2) The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.4(3) The ASWB passing score will be utilized as the Iowa passing score.

280.4(4) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.3(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master’s level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student’s expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office.

280.4(5) In lieu of the requirements in subrule 280.4(2), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

280.4(6) In lieu of the requirements in subrule 280.4(1), the board will accept verification of passing the state of California equivalent level licensing exam.

645—280.5(154C) Educational qualifications.

280.5(1) Bachelor level social worker. An applicant for a license will possess a bachelor’s degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.5(2) Master and independent level social worker. An applicant for a license will present evidence satisfactory to the board that the applicant:

- a.* Possesses a master’s degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b.* Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(4) Foreign-trained social workers shall:

- a.* Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, website www.ierf.org or email at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1701 Duke Street, Suite 200, Alexandria, Virginia 22314-3457, telephone (703)683-8080, website www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The applicant shall bear the expense of the curriculum evaluation.

645—280.6(154C) Supervised clinical experience. An applicant for licensure as an independent level social worker must complete a supervised clinical experience as set forth in this rule.

280.6(1) Minimum requirements. The supervised clinical experience must satisfy all of the following requirements:

a. Timing. The supervised clinical experience cannot begin until after licensure as a master level social worker.
b. Duration. The supervised clinical experience must be a minimum of two years.
c. Minimum number of hours. The supervised clinical experience consists of at least 3,000 hours of practice.
d. Minimum number of direct client hours. The supervised clinical experience consists of at least 1,500 hours of direct client contact.

e. Minimum number of direct supervision hours. The supervised clinical experience must consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

f. Number of supervisors. A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

g. Number of supervisees. A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

h. Content. The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

280.6(2) Eligible supervisors. A supervisor must satisfy all of the following requirements:

a. Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.
b. Have a minimum of three years of independent practice.
c. Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.
d. Be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.
e. Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

280.6(3) Supervision plan. Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

280.6(4) Supervision report. When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

280.6(5) Supervised clinical experience in other states. An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience completed can be used to qualify for licensure in Iowa.

280.6(6) Grandfather clause. Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

645—280.7(154C) License renewal.

280.7(1) The biennial license renewal period for a license to practice social work will begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

280.7(2) Renewal procedures.

a. A licensee seeking renewal will:

(1) Meet the continuing education requirements of rule 645—281.2(154C,272C) and the mandatory reporting requirements of subrule 280.9(3); and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

c. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

d. Failure to receive the notice of renewal will not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

e. A social worker whose Iowa license is delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

280.7(3) Mandatory reporting of child abuse and dependent adult abuse.

a. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa will complete an initial two-hour child abuse mandatory reporter training course offered by the department of health and human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters will take a one-hour recertification training every three years, prior to the expiration of a current certificate.

b. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa will complete an initial two-hour dependent adult abuse mandatory reporter training course offered by the department of health and human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters will take a one-hour recertification training every three years, prior to the expiration of a current certificate.

c. The requirement for mandatory reporter training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 281.

d. The board may select licensees for audit of compliance with the requirements in paragraphs “a” and “b.”

280.7(4) Late renewal. To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

280.7(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a social worker in Iowa until the license is reactivated. A licensee who practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

280.7(6) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

645—280.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

280.8(1) Submit a reactivation application.

280.8(2) Pay the reactivation fee that is due as specified in 645—subrule 5.19(4).

280.8(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant will provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant will provide the verifications in both subparagraphs (1) and (2) below plus the verification in either subparagraphs (3) or (4) below.

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure; Current licensure status; and
3. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

(3) Verification of passing the ASWB examination within the last five years at the appropriate or higher level as follows:

1. Bachelor level social worker – the bachelor's level examination; or
2. Master level social worker – the master's level examination; or
3. Independent level social worker – the clinical level examination; or

(4) Verification of continued social work practice at the appropriate or higher level in another state for a minimum of two years immediately preceding the application for reactivation.

645—280.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—280.14(17A,147,272C) prior to practicing social work in this state.

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****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	1289
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	46

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

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Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Social Work	Date:	8/15/2023	Total Rule Count:	11
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 281	Iowa Code Section Authorizing Rule:	154C
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for social workers. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that social workers maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that social workers meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them provide the best care to lowans and potentially reduces the number of complaints. While there is no specific evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There are no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Licensees have multiple options. Courses can range anywhere from \$100 an hour to \$0 per hour. The Board allows for online coursework, which increases the availability of free or low cost options.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.45 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not

been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that surrounding states require more hours than Iowa. Iowa requires 27 hours of continuing education every two years. A review of surrounding states indicates that Illinois, Missouri, and South Dakota each require 30 hours; Nebraska requires 32 hours; and Minnesota and Kansas require 40 hours. Staff held conversations with board members inquiring if the board would recommend lowering the continuing education requirements. The board did not recommend a change in continuing education hours.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 281.1 Removed restrictive language
- 281.2 Removed restrictive and obsolete language
- 281.3 Removed restrictive and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

281.4 thru 281.11

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

**CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS**

645—281.1(154C) Definitions. For the purpose of these rules, the following definitions will apply:

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of social work.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“License” means license to practice.

“Licensee” means any person licensed to practice as a social worker in the state of Iowa.

645—281.2(154C) Continuing education requirements.

281.2(1) The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 27 hours of continuing education approved by the board.

281.2(2) Requirements of new licensees. Those persons licensed for the first time during the license renewal period will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

281.2(3) Requirement of supervisors. For licensure at the independent level, persons serving in a supervisory role must complete 3 hours of continuing education in supervision.

281.2(4) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

281.2(5) No hours of continuing education will be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

281.2(6) The licensee will maintain a personal file with all documentation of the continuing education credits obtained.

645—281.3(154C, 272C) Standards.

281.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the

time of audit, the board may request the qualifications of presenters.

- d. Fulfills stated program goals, objectives, or both;
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor; and
- f. Contains one of the following content areas:
 - (1) Human behavior.
 - 1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;
 - 2. Community and organizational theories;
 - 3. Normal, abnormal and addictive behaviors;
 - 4. Abuse and neglect; and
 - 5. Effects of culture, race, ethnicity, sexual orientation and gender.
 - (2) Assessment and treatment.
 - 1. Psychosocial assessment/interview;
 - 2. Utilization of the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;
 - 3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;
 - 4. Establishing treatment goals and monitoring progress;
 - 5. Techniques of social work practice; and
 - 6. Interdisciplinary consultation and collaboration.
 - (3) Social work research, program evaluation, or practice evaluation.
 - (4) Management, administration, and social policy.
 - 1. Organizational policies and procedures;
 - 2. Advocacy and prevention in social work practice;
 - 3. Management of social work staff and other personnel; and
 - 4. Management of social work programs.
 - (5) Theories and concepts of social work education.
 - (6) Social work ethics as they pertain to the rules of conduct.
 - (7) An area, as demonstrated by the licensee, that directly relates to the licensee’s individual practice as a social worker. The licensee will submit for consideration by the board a specific explanation of how the program relates to the licensee’s individual practice setting as a social worker.

281.3(2) Specific criteria. Continuing education hours of credit can be obtained by completing:

- a. A minimum of three hours per biennium in social work ethics.
- b. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours
1 academic quarter hour = 10 continuing education hours

c. Programs designed for the purpose of enhancing the licensee’s administrative, management or other clinical skills.

d. Activities/programs that are sponsored/approved by:

- (1) ASWB Approved Continuing Education (ACE) Program; or

(2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.

e. Pro-bono/volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro-bono/volunteer services for indigent, underserved populations, or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee will apply for prior approval of pro-bono/volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 645—Chapter 282.

5. A representative from the site for pro-bono/volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro-bono/volunteer services that will be done for continuing education credit.

7. Following completion of such services:

● The licensee must provide the board a letter stating that the services were performed as planned.

● The representative on the site must provide a letter indicating such completion.

f. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis not to exceed three hours of continuing education credit per biennium.

g. Instruction/presentation/moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program provided the licensee receives a certificate of attendance in compliance with this rule.

h. Authorship of professional papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or the preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

i. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed six hours of continuing education credit per biennium.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	314
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Social Work	Date:	08/15/2023	Total Rule Count:	2
IAC #:	645	Chapter/ SubChapter/ Rule(s):	282	Iowa Code Section Authorizing Rule:	154C
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with practice guidance and requirements for social workers. The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include: informed consent, competence, supervision, privacy and confidentiality, record keeping, access to records, billing and fees, dual relationships and conflicts of interest, sexual relationships, physical contact, termination of services, misrepresentations, impairments, research, organization relationships and business practices, discrimination and sexual harassment, electronic social work services, NASW Code of Ethics, and General guidance.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as licensees are able to gather specific information regarding requirements for common practice issues. The guidance provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are often costs associated with practice standards, as there is often time, effort and money associated with compliance as is true for any service oriented industry. Members of the public would have costs associated with the services they are seeking to receive. Each licensees practice has different variables, things such as number of clients seen, nature of services provided, how services are delivered, i.e. telehealth or in person, administrative support, etc. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc. An executive officer supports the work of this board at approximately 0.45 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

This is a large profession. Masters and Independent level licensees routinely provide mental health services to lowans. There are approximately 573 Bachelor level social workers, 1854 Masters level social workers, and 2683 Independent level social workers who provide these services to lowans. The Board received 55 complaints in 2021 and 51 in 2022. The Board initiated 15 public discipline actions over those two years. The Board believes that the

costs justify the benefits achieved because the rules provide required guardrails for providing this important service to Iowans. If this profession were not regulated it could mean that vulnerable Iowans who are receiving mental health services could be placed at risk. Social Work is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive means of regulating this profession. The professional standards articulated in these rules are consistent with national best practices and recognize the highly sensitive nature of the services provided by social workers. These standards could be reduced; however, the Board would have concerns that doing so would increase the potential for inappropriate or dangerous practices occurring in Iowa.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

282.1 Removed restrictive language

282.2 Removed restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 282 PRACTICE OF SOCIAL WORKERS

645—282.1(154C) Definitions.

“Client” means the individual, couple, family, or group to whom a licensee provides direct social work services.

“Clinical services” means services provided by an LMSW or LISW which involve the professional application of social work theory and methods in diagnosing, assessing, treating, and preventing psychosocial disabilities or impairments, including emotional and mental disorders.

“Counseling” means a method used by licensees to assist clients in learning how to solve problems and

make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

“Psychosocial therapy” means a specialized, formal interaction between an LMSW or LISW and a client in which a therapeutic relationship is established and maintained to assist the client in overcoming or abating specific emotional, mental, or social problems and achieving specified goals for well-being. Psychosocial therapy is a form of psychotherapy which emphasizes the interface between the client and the client’s environment. Therapy is a planned, structured program based on a diagnosis and is directed to accomplish measurable goals and objectives specified in the client’s individual treatment plan.

645—282.2(154C) Rules of conduct.

282.2(1) Informed consent.

- a. A licensee will provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee will use clear and understandable language to inform clients about the nature of available services, potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.
- b. If a client has difficulty communicating, a licensee will attempt to ensure the client’s comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A licensee will provide information in a manner that is understandable and culturally appropriate for the client. Clients will be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.
- c. If a client lacks the capacity to provide informed consent, a licensee will protect the client’s interests by seeking permission from an appropriate third party and will inform the client consistent with the client’s level of understanding. In such instances, a licensee will seek to ensure that the third party acts in a manner consistent with the client’s wishes and interests. A licensee will take reasonable steps to enhance the client’s ability to give informed consent.
- d. If a client is receiving services involuntarily, a licensee will provide information about the nature and extent of services and about the extent of the client’s right to refuse services.
- e. The provision of social work services to an individual in this state through any electronic means, including the Internet, telephone, or the Iowa Communications Network or any fiberoptic media, regardless of the location of the licensee, constitutes the practice of social work in the state of Iowa and will be subject to regulation in accordance with Iowa Code chapters 147 and 154C and the administrative rules of the board. A licensee who provides services via electronic media will inform recipients of the limitations and risks associated with such services.
- f. A licensee will obtain a client’s informed consent before audiotaping or videotaping the client or permitting a third party to observe services provided to the client.
- g. A licensee will develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and will inform clients of applicable policies.

282.2(2) Competence.

- a. A licensee will provide services and represent oneself as competent only within the boundaries of the licensee’s education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.
- b. A licensee will provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from people

who are competent in those areas, interventions, or techniques.

c. When generally recognized standards do not exist with respect to an emerging area of practice, a licensee will exercise careful judgment and take responsible steps, including appropriate education, research, training, consultation and supervision, to ensure competence and to protect clients from harm.

282.2(3) Supervision.

a. A licensee will exercise appropriate supervision over persons who practice under the supervision of the licensee.

b. A licensee who provides supervision or consultation will have the necessary knowledge and skill to supervise or consult appropriately and will do so only within the licensee's areas of knowledge and competence.

c. A licensee who provides supervision or consultation is responsible for setting clear, appropriate, and culturally sensitive boundaries.

d. A licensee will not engage in any dual or multiple relationships with supervisees if there is a risk of exploitation of or potential harm to the supervisee.

e. A licensee will not engage in sexual activities or sexual contact with a supervisee, student, trainee, or other colleague over whom the licensee exercises professional or supervisory authority.

f. A licensee will not employ, assign, or supervise an individual in the performance of services that require a license if the individual has not received a license to perform the services or if the individual has a suspended, revoked, lapsed, or inactive license.

g. A licensee will not practice without receiving supervision, as needed, given the licensee's level of practice, experience, and need.

282.2(4) Privacy and confidentiality.

a. A licensee will not disclose or be compelled to disclose client information unless required by law, except under the following limited circumstances:

(1) This includes situations in which the licensee determines that disclosure is necessary to prevent serious, foreseeable, and imminent harm to the client or another specific identifiable person.

(2) If the client waives the privilege by bringing criminal, civil, or administrative charges or action against a licensee.

(3) With the written informed consent of the client that explains to whom the client information will be disclosed or released and the purpose and time frame for the release of information. If the client is deceased or unable to provide informed consent, a licensee will obtain written consent from the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.

(4) To testify in a court or administrative hearing concerning matters pertaining to the welfare of children.

(5) To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

(6) Pursuant to a validly issued subpoena or court order.

In the event of a disclosure of information under any of the circumstances stated above, the licensee will disclose the least amount of confidential information necessary and will reveal only that information that is directly relevant to the purpose for which the disclosure is made.

b. Before the disclosure is made, on the basis of client consent or other legal basis, a licensee will inform the client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure.

c. A licensee will discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A licensee will review with clients the circumstances under

which confidential information may be requested and when disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

d. When a licensee provides counseling or psychosocial therapy services to families, couples, or groups, the licensee will seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others. A licensee will inform participants in family, couples, or group counseling or psychosocial therapy that the licensee cannot guarantee that all participants will honor such agreements.

e. A licensee will inform clients involved in family, couples, marital, or group counseling or psychosocial therapy of the licensee's, the licensee's employer's, and agency's policy concerning the licensee's disclosure of confidential information among the parties involved in the counseling or psychosocial therapy.

f. A licensee will not disclose confidential information to third-party payers unless a client has authorized such disclosure. A licensee will inform the client of the nature of the client information to be disclosed or released to the third-party payer.

g. A licensee will not discuss confidential information in any setting unless privacy can be ensured.

h. A licensee will protect the confidentiality of clients during legal proceedings to the extent permitted by law.

i. A licensee will protect the confidentiality of clients when the licensee is responding to requests from members of the media.

j. A licensee will protect the confidentiality of clients' written and electronic records and other sensitive information. A licensee will take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access.

k. A licensee will take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, telephone answering machines, and other electronic or computer technology.

l. A licensee will transfer or dispose of client records in a manner that protects client confidentiality and is consistent with federal and state statutes, rules and regulations and the guidelines of the licensee's employer or agency, if applicable.

m. A licensee will take reasonable precautions to protect client confidentiality in the event of the licensee's termination of practice, incapacitation, or death.

n. A licensee will not disclose identifying information when discussing a client for teaching or training purposes or in public presentations unless the client has consented to disclosure of confidential information.

o. A licensee will not disclose identifying information when discussing a client with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.

p. Consistent with the preceding standards, a licensee will protect the confidentiality of deceased clients.

282.2(5) Record keeping.

a. A licensee will maintain sufficient, timely, and accurate documentation in client records. A licensee's records will reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

b. A licensee who provides clinical services in any employment setting, including private practice, will maintain timely records that include subjective and objective data, assessment or diagnosis, a treatment plan, and any revisions to the assessment, diagnosis, or plan made during the course of treatment.

c. A licensee who provides clinical services will store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee will store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

282.2(6) Access to records. A licensee who provides clinical services will:

a. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client will provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request and the rationale for withholding some or all of a record should be documented in the client's records.

b. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

282.2(7) Billing and fees.

a. A licensee will bill only for services which have been provided.

b. A licensee will not accept goods or services from the client or a third party in exchange for the licensee's services.

c. A licensee will not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the licensee's employer or agency.

d. A licensee will not accept, give, offer or solicit a fee, commission, rebate, fee split, or other form of consideration for the referral of a client.

e. A licensee will not permit any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant to the licensee.

f. A licensee who provides clinical services will, when appropriate:

(1) Establish and maintain billing practices that accurately reflect the nature and extent of services provided.

(2) Inform the client of the fee for services at the initial session or meeting with the client. A licensee will provide a written payment arrangement to a client at the commencement of the professional relationship.

282.2(8) Dual relationships and conflicts of interest.

a. "Dual relationship" means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, "dual relationship" does not include a sexual relationship. Standards governing sexual relationships are found in subrule 282.2(9).

(1) Current clients. A licensee will not engage in a dual relationship with a client.

(2) Former clients. A licensee will not engage in a dual relationship with a client within five years of the termination of the client relationship. A licensee will not engage in a dual relationship with a former client, regardless of the length of time elapsed since termination of the client relationship, when there is a risk of exploitation or potential harm to a client or former client.

(3) Unavoidable dual relationships with current and former clients. If a dual relationship with a current or former client is unavoidable, the licensee will take steps to protect the client and will be responsible for setting clear, appropriate, and culturally sensitive boundaries. The burden will be on the licensee to show that the dual relationship was unavoidable. In determining whether a dual relationship

was unavoidable, the board will consider the size of the community, the nature of the relationship, and the risk of exploitation or harm to a client or former client.

b. Conflicts of interest.

(1) A licensee will avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(2) A licensee will not continue in a professional relationship with a client when the licensee has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.

(3) A licensee will inform the client when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the client's interests primary and protects the client's interests to the greatest extent possible. In some cases, protecting the client's interests may require termination of the professional relationship with proper referral of the client.

(4) A licensee will not take unfair advantage of any professional relationship or exploit others to further the licensee's personal, religious, political, or business interests.

(5) A licensee who provides services to two or more people who have a relationship with each other will clarify with all parties, when appropriate and in a manner consistent with the confidentiality standards of subrule 282.2(4), which individuals will be considered clients and the nature of the licensee's professional obligations to the various individuals who are receiving services. A licensee who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles will clarify, when appropriate and in a manner consistent with the confidentiality standards at subrule 282.2(4), the licensee's role with the parties involved and take appropriate action to minimize any conflict of interest.

282.2(9) Sexual relationships.

a. Current clients. A licensee will not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A licensee will not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee will not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee will not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee will not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee will not provide clinical services to an individual with whom the licensee has had prior sexual contact.

282.2(10) Physical contact. A licensee will not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

282.2(11) Termination of services.

a. A licensee will terminate services to a client when such service is no longer required or no longer serves the client's needs or interests.

- b. A licensee will take reasonable steps to avoid abandoning clients who are still in need of services. A licensee will assist in making appropriate arrangements for continuation of services when necessary.
- c. A licensee will not terminate services to pursue a social, financial, business, romantic, or sexual relationship with a client.
- d. A licensee who anticipates the termination or interruption of services to a client will notify the client promptly and seek the transfer, referral, or continuation of services in relation to the client's needs and preferences.
- e. A licensee who is leaving an employment setting will inform clients, to the extent possible given the nature of the termination of the employment relationship, of appropriate options for the continuation of services and of the benefits and risks of the options.
- f. If the employer who terminates a licensee is also a licensee, the employer will provide notice to clients or allow the licensee the opportunity to provide notice to clients to ensure appropriate case closure or continuation or transfer of services if continued treatment is necessary.
- g. A licensee who provides clinical services will comply with the following additional standards regarding termination of the client relationship:
- (1) Termination of a client relationship will be documented in the client record. Absent written documentation of termination, the professional relationship will be considered ongoing.
- (2) A licensee who practices in a fee-for-service setting may terminate services to a client who is not paying an overdue balance only if the financial contractual arrangements have been made clear to the client, if the client does not pose an imminent danger to self or others, and if the clinical and other consequences of the current nonpayment have been addressed and discussed with the client. Prior to terminating services under this subrule, a licensee will make reasonable efforts to collect the unpaid fees and will make appropriate referrals for the client.
- 282.2(12) Misrepresentations, disclosure. A licensee will not:**
- a. Knowingly make a materially false statement, or fail to disclose a relevant material fact, in a letter of reference, application, referral, report or other document.
- b. Knowingly allow another person to use the licensee's license or credentials.
- c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.
- d. Impersonate another person or misrepresent an organizational affiliation in one's professional practice.
- e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attribute.
- f. Fail to notify the appropriate licensing authority of any human services professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.
- g. Engage in professional activities, including advertising, that involve dishonesty, fraud, deceit, or misrepresentation.
- h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, the highest relevant degree and licensure status of the provider of services.
- i. Fail to distinguish, or purposely mislead the reader or listener in public announcements, addresses, letters and reports as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.
- j. Engage in direct solicitation of potential clients for pecuniary gain in a manner or in circumstances which constitute overreacting, undue influence, misrepresentation or invasion of privacy.

- k. Fail to inform each client of any financial interests that might accrue to the licensee for referral to any other person or organization or for the use of tests, books, or apparatus.
- l. Fail to inform each client that the client may be entitled to the same services from a public agency, if the licensee is employed by that public agency and also offers services privately.
- m. Make claims of professional superiority which cannot be substantiated by the licensee.
- n. Guarantee that satisfaction or a cure will result from the performance of professional services.
- o. Claim or use any secret or special method of treatment or techniques which the licensee refuses to divulge to professional colleagues.
- p. Take credit for work not personally performed whether by giving inaccurate information or failing to give accurate information.
- q. Offer social work services or use the designation of licensed bachelor social worker, licensed master social worker, or licensed independent social worker; or use the designations LBSW, LMSW, or LISW or any other designation indicating licensure status; or hold oneself out as practicing at a certain level of licensure unless the licensee is duly licensed as such.
- r. Permit another person to use the licensee's license for any purpose.
- s. Practice outside the scope of a license.

282.2(13) Impairments.

- a. A licensee will not:
 - (1) Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.
 - (2) Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.
 - (3) Practice in a professional relationship if involuntarily committed for treatment of mental illness, drug addiction, or alcoholism.
- b. A licensee who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The licensee will be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 645—Chapter 16.

282.2(14) Research. If engaged in research, a licensee will:

- a. Consider carefully the possible consequences for human beings participating in the research.
- b. Protect each participant from unwarranted physical and mental harm.
- c. Ensure that the consent of the participant is voluntary and informed and that each participant executes a signed informed consent form which details the nature of the research and any known possible consequences.
- d. Treat information obtained as confidential.
- e. Not knowingly report distorted, erroneous, or misleading information.

282.2(15) Organization relationships and business practices. A licensee will not:

- a. Solicit the clients of colleagues or assume professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague.
- b. Abandon an agency, organization, institution, or group practice without reasonable notice or under circumstances which seriously impair the delivery of professional care to clients.
- c. Deliberately falsify client records.
- d. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client is adversely affected.

e. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

282.2(16) Discrimination and sexual harassment.

a. A licensee will not practice, condone, or facilitate discrimination against a client, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

b. A licensee will not sexually harass a client, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

282.2(17) General. A licensee will not:

a. Practice without receiving supervision as needed, given the licensee’s level of practice, experience, and need.

b. Practice a professional discipline without an appropriate license or after expiration of the required license.

c. Physically or verbally abuse a client or colleague.

d. Obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority; or sell, prescribe, give away, or administer controlled substances.

282.2(18) Relationship between the board’s rules of conduct and the National Association of Social Workers (NASW) Code of Ethics. The NASW Code of Ethics is one resource for practitioners with respect to practice and ethical issues, and selected sections from the NASW Code of Ethics have been incorporated into the rules of conduct. A licensee’s professional conduct is governed by the board’s rules of conduct, and a licensee may be disciplined for violation of these rules.

282.2(19) Electronic social work services. A licensee will:

a. Assess the client’s suitability and capacity for online and remote services at the point of the client’s first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.

b. Take reasonable steps to verify the client’s identity, ability to consent to services, and location. When verification of a client’s identity is not feasible, social workers will inform the client of the limitations of services that can be provided.

c. Continually assess a client’s suitability for electronic social work services during the course of the professional relationship.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	52
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	106

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Board of Social Work	Date:	08/15/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 283	Iowa Code Section Authorizing Rule:	154C
Contact Name:	Tony Alden	Email:	Tony.alden@idph.iowa.gov	Phone:	515-281-4401

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publically defines required professional standards for social workers. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the social work professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

In 2021, the Board received 55 complaints against licensees and in 2022 it received 51 complaints. The Board initiated 15 public discipline actions during that two-year period. Social workers routinely provide mental health services to lowans. Licensee who fail to meet practice standards have the potential to inflict serious harm to vulnerable lowans who receive their services. The Board believes that these rules are necessary to protect against this.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rules in this chapter are related to standard of care, so there would be a cost to the practitioner in taking the needed time to gain the necessary prerequisite training for safe practice and to review maintain current knowledge of the evolving profession. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty to satisfy disciplinary action. Civil penalties are capped at \$1,000 per incident, up to a maximum of \$10,000.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.45 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive care from competent and safe practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

283.2 removed duplicative language found in 645 Chapter 13 and replaced restrictive language with less restrictive terms.

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 283.1
- 283.3
- 293.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 283 DISCIPLINE FOR SOCIAL WORKERS

645—283.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code Chapter 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645-13:

283.1 Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.2(154C).

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1500
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/7/23	Total Rule Count:	18
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 300	Iowa Code Section Authorizing Rule:	154F, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the speech pathology and audiology profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a speech pathologist or audiologist in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa speech pathologist or audiologist are:
 Education: masters or doctoral in speech or audiology
 Exam fee: Praxis \$146
 Application fee: \$120 (Please note application fees are addressed in IAC 645-5.12)

In Comparison, Nebraska requirements are below:
 Education: masters or doctoral in speech or audiology, ASHA certification
 Exam fee: Praxis \$146
 Application fee: \$140

In comparison, Minnesota requirements are below:
 Education: masters or doctoral in speech or audiology
 Exam fee: \$600
 Application fee: 18 month license, speech- \$160.50 and audiology- \$396

Iowa's initial licensure application process is very similar to those implemented by other state boards of speech pathologists and audiologists.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the licensing and Regulation Fund established in SF 557. It takes roughly .33 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to the licensure of speech pathologists and audiologists. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rule provides consistency related to the licensure of speech pathologists or audiologists in other states, which makes obtaining licensure in multiple states simpler for applicants. Iowa is part of the Compact as well.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 300.1: Removed redundant and obsolete language from the definitions. Clarified language in definitions
- 300.3: Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 300.4: Replaced restrictive terms with less restrictive alternatives

300.5: Removed redundant language, replaced restrictive terms with less restrictive alternatives
Added new 300.5 with compact language for licensure
300.6: Removed redundant language, replaced restrictive terms with less restrictive alternatives
300.8: Replaced restrictive terms with less restrictive alternatives
300.9: Removed redundant and obsolete language
300.11: Removed redundant language, replaced restrictive terms with less restrictive alternatives
300.17: Removed redundant and obsolete language
300.18: Removed redundant and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

300.2: Moved to practice chapter 301
300.10: Reserved chapter currently
300.12: Removed repetitive language already in chapter 4
300.13-16: Reserved chapters currently

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300 LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 301 PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 302 RESERVED
CHAPTER 303 CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 304 DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*ASHA*” means the American Speech-Language Hearing Association.

“*Assistant*” means an unlicensed person who works under the supervision of an Iowa-licensed speech pathologist or audiologist and meets the minimum requirements set forth in these rules.

“*Audiologist*” means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination, selection and use of appropriate hearing devices.

“*Board*” means the board of speech pathology and audiology.

“*Full-time*” means a minimum of 30 hours per week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*On site*” means:

1. To be continuously on site and present in the department or facility where services are being provided;

2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—300.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“*Speech pathologist*” means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, swallowing, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

645—300.2(147) Requirements for licensure. The following criteria applies to licensure:

300.2(1) Applicants will submit a completed online licensure application and pay the required fee.

300.2(2) The application will include:

- a. An official copy of a current ASHA certificate of clinical competence; or
- b. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of completion of not less than 400 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master’s degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and

(3) Results of the Praxis Examination.

300.2(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

300.2(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a) Licensee’s name;
- b) Date of initial licensure;
- c) Current licensure status; and
- d) Any disciplinary action taken against the license.

645—300.3(147) Educational qualifications.

300.3(1) The applicant shall possess the following:

- a. A master’s degree from an accredited school, college or university with a major in speech pathology; or
- b. A master’s or doctoral degree from an accredited school, college or university with a major in audiology.

300.3(2) Foreign-trained speech pathologists and audiologists will:

a. Provide an equivalency evaluation at the licensee’s expense of their educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service. The professional curriculum must be equivalent to that stated in these rules.

645—300.4(147) Examination requirements. The examination required by the board will be the Praxis Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service.

300.4(1) The applicant will make arrangements to take the Praxis Examination in speech pathology or audiology and pay all expenses associated with taking the examination. The applicant will have the examination scores sent directly to the board from the Educational Testing Service.

645—300.5(147) Speech Therapy and Audiology compact. The rules of the speech therapy and audiology compact commission are incorporated by reference. A speech therapist or audiologist may practice speech therapy or audiology in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the speech pathology and audiology compact commission.

645—300.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board. The license shall be designated “temporary clinical license in speech pathology” or “temporary clinical license in audiology.”

300.6(1) A speech pathology applicant will submit the following to the board:

a. Evidence of supervision by a speech pathologist with an active, current Iowa license in good standing;

A completed application form and the temporary clinical license fee ;

c. An official copy of the transcript sent directly from the school to the board;

d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and

Results of the Praxis Examination.

300.6(2) An audiology applicant or an applicant completing a doctoral externship must submit the following to the board:

a. Evidence of supervision by an audiologist with an active, current Iowa license in good standing. The applicant completing an audiology doctoral externship must show evidence of on-site supervision;

b. A completed application form and the temporary clinical license fee;

c. An official copy of the transcript, sent directly from the school to the board;

d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and

e. Results of the Praxis Examination.

300.6(3) The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

a. Include at least nine months of full-time clinical experience, or equivalent;

b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate. If the applicant is being supervised by more than one individual, each supervisor must submit a supervised clinical experience plan for approval. If there is a change in the supervised clinical experience plan at any time during the supervised clinical experience, the licensee must contact the board for approval within 30 days of the change;

c. Be kept by the supervisor for two years from the last date of the clinical experience; and

d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology upon the applicant’s successful completion of the nine months of full-time clinical experience. If the applicant was supervised by more than one individual, each supervisor must submit a supervised clinical experience report.

645—300.7(147) Temporary permit.

300.7(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

a. For a period not to exceed three months;

b. By submitting a letter to support the need for such a permit;

c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;

d. By submitting the documentation prior to the date the applicant intends to begin practice; and

e. By submitting the temporary permit fee.

300.7(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

645—300.8(147) Use of assistants. A licensee will, in the delivery of professional services, utilize assistants only to the extent provided in these rules. Such assistants will use the title provided by these rules.

300.8(1) Duties.

a. Speech pathology assistant I. A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. Speech pathology assistant II. A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. Audiology assistant I. An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual’s training.

d. Audiology assistant II. An audiology assistant II is trained specifically for a single task for screening.

300.8(2) Minimum requirements.

a. A speech pathology assistant I or II or audiology assistant I will satisfy the following minimum requirements:

- (1) Reach the age of majority;
- (2) Complete a high school education, or its equivalent; and
- (3) Complete one of the following:

1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II will satisfy the following requirements:

- (1) Reach the age of majority.
- (2) Complete a high school education, or its equivalent.
- (3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

300.8(3) Utilization. Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

a. Documentation that the assistant meets minimum requirements;

b. A written plan of the activities and supervision that will be kept by the licensee supervising the assistant. This supervision will include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants will be supervised 10 percent of the time. At least half of that time will be direct on-site observation with the other portion provided as time interpreting results;

c. A listing of the facilities where the assistant will be utilized; and

d. A statement, signed by the licensee and the assistant, acknowledging they have read the rules pertaining to assistants.

300.8(4) Maximum number of assistants. A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.8(5) Supervisor responsibilities. A licensee who utilizes an assistant will have the following responsibilities:

a. To be legally responsible for the actions of the assistant in assigned duties with a client;

b. To make all professional decisions relating to the management of a client;

c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing direct observation and supervision of the activities of the assistant; and

e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

645—300.9(147) Licensure by endorsement.

300.9(1) The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction.

300.9(2) Verification the applicant meets the requirements of 645-300.2

300.9(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—300.10(147) License renewal.

300.10(1) The biennial license renewal period for a license to practice speech pathology or audiology will begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

300.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

300.10(3) A licensee seeking renewal will:

a. Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

300.10(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children and/or dependent adults in the scope of their professional practice will complete the applicable department of health and human services' training relating to the identification reporting of child abuse and/or dependent adult abuse. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs 300.11(4) "a" to "b."

300.10(5) A two-year license will be issued after the requirements of the rule are met.

If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

300.10(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

300.10(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.20(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

300.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated. may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—300.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license

300.11(1) Submit a completed reactivation application and pay the non-refundable application fee.

300.11(2) Provide verification of current competence to practice speech pathology and audiology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation; or

(3) Verification of passing the Praxis Examination in speech pathology or audiology within the last two years prior to application for reactivation.

645—300.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing speech pathology and audiology in this state.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	4157-2932=1225
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	44

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

154F.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. “*Audiologist*” means a person who engages in the practice of audiology.
2. “*Board*” means the board of speech pathology and audiology established pursuant to section 147.14, subsection 1, paragraph “i”.
3. The “*practice of audiology*” means the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination, **selection** and use of appropriate **amplification hearing devices**.
4. The “*practice of speech pathology*” means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, **swallowing**, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

Reason for code change recommendation: Clarify the following definitions in code to match the proposed changes in rules.

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	1
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 301	Iowa Code Section Authorizing Rule:	154F, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides lowans, licensees, and their employers with definitions relevant to the practice of speech pathology and audiology and telehealth appointments. This rule articulates practice standards and provides a scope of practice for the profession.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved as the rule provides guidelines for practice that licensees must abide by, which therefore serves to protect the public.

What are the costs incurred by the public to comply with the rule?

There are costs associated with practice standards, as there is often time, effort and money associated with compliance. There are costs associated with this requirement to the public in the form of a payment or co-payment for the telehealth visit. Both the licensee and public assume any costs for technology to complete a telehealth visit. The Board believes requirements surrounding telehealth visits are important to ensure that the services provided are of the same quality as they would be in person. Conversely, telehealth provides lowans the ability to access care virtually, which also has the potential to save individuals time and money. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes oversight of practice standards. The time needed to manage this provision is generally in the form of responding to questions related to practice standards. An executive officer supports the full scope of work of this board at approximately 0.50 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

There are approximately 2251 people licensed by the board as audiologists or speech pathologists in Iowa. There are very few complaints submitted to this Board. In 2022 there were a total of two complaints submitted and the board issued no public discipline. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing this important service to lowans. If this

profession were not regulated it could mean that lower skilled individuals would provide this service to lowans, which would be of concern to the Board. Speech pathology and audiology are regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current process. Speech pathology and audiology are medical professions that provide healthcare to lowans. Speech pathologists and audiologists require ongoing monitoring for compliance and meeting practice standards. Speech pathologists and audiologists require licensure in all states.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

123.1: Replaced restrictive terms with less restrictive alternatives. Added information from section 300.2 Licensure as it fits with telehealth information in this chapter.

RULES PROPOSED FOR REPEAL (list rule number[s]):

NA

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 301
PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—301.1(147) Telehealth visits. A licensee may provide speech pathology or audiology services to a patient utilizing a telehealth visit if the services are provided in accordance with the following:

301.1(1) “Telehealth visit” means the provision of speech pathology or audiology services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location during the appointment.

301.1(2) A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an appointment or to communicate

with a patient between appointments.

301.1(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person speech pathology or audiology services. A licensee will not utilize a telehealth visit if the standard of care for the particular speech pathology or audiology service cannot be met using technology.

301.1(4) Prior to the first telehealth visit, a licensee will obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent will specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide speech pathology or audiology services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

301.1(5) A licensee will only provide speech pathology or audiology services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

301.1(6) A licensee will identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

301.1(7) Speech pathology or audiology services in Iowa through telephonic, electronic, or other means, constitute the practice of speech pathology or audiology and require Iowa licensure, regardless of the location of the speech/language pathologist or audiologist.

This rule is intended to implement Iowa Code chapters 147 and 154F.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+18
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/10/23	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 303	Iowa Code Section Authorizing Rule:	154F, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for speech pathologists and audiologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that speech pathologists and audiologists maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that speech pathologists and audiologists meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice in an evolving field, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Manufacturers offer many free options for licensees. Speech pathologists in Iowa reported online continuing education services could be provided for \$100 a year, or the state association ISHA does an annual conference for 15 con ed hours per year for \$325. They estimated the average cost for continuing education credits for two years to be \$400-650. Common CEU coverage by employers is around \$1000 annually. Audiologists reported that some employers offer \$1500 per year for continuing education.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.31 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the

work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states do successfully manage continuing education programs with fewer hours required per renewal cycle. Currently, Iowa requires 30 hours of continuing education for these license types every two years. Nebraska, Kansas, Missouri and Illinois require 20 hours. South Dakota requires 20 for speech pathologists and 24 for audiologists. Minnesota requires 30 hours. After discussions with the Board regarding this topic, representatives of the board were in agreement to reduce the total number of hours every two years from 30 to 26.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 303.1 Removed redundant and obsolete language from the definitions
- 303.2 Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 303.3 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

303.4-303.11- previously rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 303
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND
AUDIOLOGISTS

645—303.1(147) Definitions. For the purpose of these rules, the following definitions will apply:

“AAA” means the American Association of Audiology.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“ASHA” means the American Speech-Language Hearing Association.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of speech pathology and audiology.

“Continuing education” means an approved program/activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“License” means license to practice.

“Licensee” means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

645—303.2(147) Continuing education requirements.

303.2(1) The biennial continuing education compliance period runs concurrently with each two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, a person who is licensed to practice as a speech pathology or audiology licensee in this state will be required to complete a minimum of 26 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession. Continuing education hours do not carry over.

303.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

303.2(3) Hours of continuing education credit may be obtained by participation in an approved program or activity. Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 645—303.1(147).

303.2(4) No hours of continuing education will be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

303.2(5) The licensee is responsible for the cost of continuing education.

645—303.3(147,272C) Standards.

303.3(1) General criteria. A continuing education program or activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education program or activity:

- a. Meets the definition of continuing education as defined in rule 645—303.1(147);
- b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills state program goals, objectives, or both; and
- d. Provides proof of attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

303.3(2) Specific criteria.

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board will accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; professional ethics; clinical supervision; counseling; and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. A licensee may elect to take the Praxis Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee will have the results of the examination sent to the board by the agency administering the examination.

b. A licensee may present professional programs which meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A maximum of 12 hours may be obtained per biennium. A course schedule or brochure must be maintained for audit.

c. A combined total of six hours per biennium may be used for the following activities:

- (1) Government regulations;
- (2) CPR, child abuse and dependent adult abuse; and
- (3) A maximum of two hours may be used for business-related topics.

d. An applicant will provide official transcripts indicating successful completion of academic courses which apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit
1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

e. Continuing education credit may be earned by participation in continuing education programs and activities which meet the criteria in this rule and which are completed through journal readings, teleconference or videoconference participation, and online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

f. Continuing education will be obtained by attending a program that meets the criteria in subrule 303.3(1) including but not limited to continuing education programs offered by AAA and ASHA. Other individuals or groups may offer continuing education programs that meet the criteria in rule 645—303.3(147,272C) through one of the following organizations:

- (1) National, state or local associations of speech pathology and audiology;
- (2) Schools and institutes of speech pathology and audiology;
- (3) Universities, colleges or community colleges.

Continuing education must be offered by or approved in advance of delivery by the organizations stated above.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	8
Proposed word count reduction after repeal and/or re-promulgation	1549-1186=363
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	9

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/9/23	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 304	Iowa Code Section Authorizing Rule:	154F, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for speech pathologists and audiologists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the speech pathologist and audiologist professions and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Speech Pathologist and Audiology Board receives a low number of complaints. In 2022, there were two complaints submitted and the board issued no public discipline. Speech Pathologists and Audiologists is a large profession at approximately 2251 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, speech pathology and audiology are health care professions that are technical in nature and require a high level of skill, so the Board believes that regulation is necessary.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1,000 per incidence, with a maximum of \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to

manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.50 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs are extremely low. The Board believes that the low cost does justify the benefits achieved because the practice of speech pathology and audiology are health care professions that require skill, knowledge and precision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

304.2 removed duplicative language found in 645 Chapter 13 and replaced restrictive language with less restrictive terms.

RULES PROPOSED FOR REPEAL (list rule number[s]):

304.1 removed duplicative/unnecessary definitions
304.3 removed duplicative language found in 645 Chapter 13
304.4 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—304.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—304.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645.13.

304.2(1) Violation of the following code of ethics:

- a. Licensees will provide ethical, professional services, conduct research with honesty and compassion, and respect the dignity, worth and rights of those served.
- b. Claims of expected clinical results will be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.
- c. Records will be adequately maintained for the period of time required by applicable state and federal laws.
- d. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.
- e. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.
- f. Licensees who engage in research will comply with all institutional, state, and federal regulations that address any aspects of research, including those that involve human participants and animals, such as those promulgated in the current Responsible Conduct of Research by the U.S. Office of Research Integrity.
- g. Individuals in administrative or supervisory roles will not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff members' independent and objective professional judgment.
- h. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, age, ethnicity, gender identity/gender expression, sexual orientation, national origin, disability, culture, language or dialect.
- i. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances will be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.
- j. Licensees who dispense products to persons served professionally will provide clients with freedom of choice for the source of services and products.
- k. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420, "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421, "Hearing aid devices; conditions for sale."
- l. Licensees will comply with universal newborn and infant hearing screening requirements within Iowa Code section 135.131 and 641—Chapter 3.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	2204-425=1779
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

**Red Tape Review Rule Report
(Due: September 1, 20 23)**

Department Name:	Inspections, Appeals, & Licensing	Date:	August 22, 2023	Total Rule Count:	14
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 326 Licensure of Physician Assistants	Iowa Code Section Authorizing Rule:	17A, 147, 148C and 272C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for licensure as a physician assistant in our state. Iowa residents, licensees, and employers benefit from the rule as it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements. The rule also incorporates provisions directed by HF 424 to determine the terms of collaboration for a PA who enters into independent practice.

Is the benefit being achieved? Please provide evidence.

Yes, the Board believes the benefit of the rule is being achieved as only qualified individuals are permitted to enter the profession and the rule satisfied statutory directives established by the legislature.

What are the costs incurred by the public to comply with the rule?

There are no direct costs imposed on the public to comply with the rule, however, there is a cost to the applicant to meet the requirements statute and rule.

Required education and licensure costs to become an Iowa licensed physician assistant:
 Education: Complete an approved academic program for the education of physician assistants.
 Provide proof of NCCPA certification.
 PANCE examination fee: \$550
 Application fee: \$120

In comparison, Nebraska requirements are below:
 Education: Complete an approved academic program for the education of physician assistants.
 PANCE examination fee: \$550
 Application fee: \$150.00

In comparison, Minnesota requirements are below:
 Education: Complete an approved academic program for the education of physician assistants.
 Provide proof of NCCPA certification.
 PANCE examination fee: \$550

Application fee: \$280.50

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs incurred by the agency are staff time to manage the full scope of board activities that includes oversight of practice standards, triaging questions from licensees and the public, and administering board meetings. An executive officer supports the work of the board at approximately 0.34 FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. Since 2021, there were 48 complaints filed. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing high quality patient care to lowans. These regulations help to ensure physician assistants understand their obligations to safely manage and treat patients within their scope of practice.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost-effective alternative to the licensure of physician assistants. The Board believes all current requirements assure public safety and ensure a minimum competency of care is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, however, the Board would be concerned about the public safety of lowans in that scenario. Doing so would also place Iowa out of line with the rest of the country. The regulation and licensure of physician assistants is consistent across the country.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication and restrictive language in accordance with EO10.

- 326.1 – Incorporates provisions of HF 424.
- 326.2 – Removes unnecessary and restrictive language.
- 326.3 – Removes restrictive language.
- 326.4 – Removes restrictive language.
- 326.5 – Incorporates provisions of HF 424.
- 326.5 – Incorporates provisions of HF 424.
- 326.6 - Incorporates provisions of HF 424.
- 326.7 - Incorporates provisions of HF 424.
- 326.8 - Incorporates provisions of HF 424.
- 326.9 - Incorporates provisions of HF 424.
- 326.10 - Incorporates provisions of HF 424.

- 326.11 - Incorporates provisions of HF 424.
- 326.12 - Incorporates provisions of HF 424.
- 326.13 - Incorporates provisions of HF 424.
- 326.14 – Removes restrictive and redundant language.
- 326.16 – Removes restrictive language.
- 326.17 – Removes restrictive language.
- 326.18 – Removes restrictive language.
- 326.19 – Removes restrictive and redundant language.
- 326.20 – Removes restrictive language.
- 326.21 – Incorporates provisions of HF 424.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 326
LICENSURE OF PHYSICIAN ASSISTANTS

645—326.1(148C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program” means a program for the education of physician assistants which has been accredited by the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

“Board” means the board of physician assistants.

“CME” means continuing medical education.

“Collaboration” means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient’s condition; the education, competencies, and experience of the physician assistant; and the standard of care.

“Department” means the department of inspections, appeals and licensing.

“Direction” means authoritative policy or procedural guidance for the accomplishment of a function or activity.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent practice” means the practice of a physician assistant that is organized as a professional corporation under Iowa Code chapter 496c or a professional limited liability company under Iowa code

chapter 489.

“Licensee” means a person licensed by the board as a physician assistant to provide medical services.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

“Locum tenens” means the temporary substitution of one licensed physician assistant for another.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“NCCPA” means the National Commission on Certification of Physician Assistants.

“Opioid” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician supervising a physician assistant practicing in a federal facility or under federal authority will not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

“Physician assistant” or *“PA”* means a person licensed as a physician assistant by the board.

“Prescription monitoring program database” or *“PMP database”* means the Iowa prescription monitoring program database administered by the Iowa board of pharmacy pursuant to Iowa Code chapter 124, subchapter VI, and 657—Chapter 37.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—326.19(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervising physician” means a physician who supervises the medical services provided by the physician assistant engaged in independent practice consistent with the physician assistant’s education, training, or experience.

“Supervision” means the availability of a physician for consultation and collaboration on the activities of a physician assistant who is engaged in independent practice and who has not practiced for at least two years under a supervising physician or in collaboration with an appropriate physician or other health care professional. Supervision will not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C. Supervision shall not be construed to apply to any physician assistant who is not engaging in independent practice or who is engaged in independent practice but has at least two years of practice under a supervising physician or in collaboration with an appropriate physician or other health care professional

“Supply prescription drugs” means to deliver to a patient or the patient’s representative a quantity of prescription drugs or devices that are properly packaged and labeled.

645—326.2(148C) Initial licensure.

326.2(1) To apply for a license, the applicant will complete an online application packet and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application and submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(1) Submit proof of completing 100 CME hours for each biennium since initial certification.

b. A person who is licensed in another jurisdiction who cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

c. An application not completed according to guidelines will not be reviewed by the board.

d. The applicant will request the approved program for the education of physician assistants to submit official copies of the applicant's transcript to the board office. EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

e. The applicant will request the NCCPA, or its successor agency, to send a copy of the initial certification to the board office.

f. In lieu of paragraphs "d" and "e," an applicant may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

326.2(2) Licensees who were issued their licenses within six months prior to the renewal date will not be required to renew their licenses until the renewal date two years later.

326.2(3) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Maintained upon written request from the candidate.

645—326.3(148C) Temporary licensure.

326.3(1) A temporary license may be issued for an applicant who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

326.3(2) The applicant must comply with subrule 326.2(1), with the exception of paragraphs "d" and "e."

326.3(3) A temporary license will be valid for one year from the date of issuance.

326.3(4) The temporary license will be renewed only once upon the applicant's showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination will be submitted to the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

326.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

326.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

326.3(7) The applicant will ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

645—326.4(148C) Examination requirements. The applicant for licensure as a physician assistant will successfully pass the certifying examination conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board of physician assistants.

645—326.5(148C) Two-Year Physician Supervision

326.5(1) Eligibility determinants. A physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant. A physician is ineligible to supervise a physician assistant for any of the following reasons:

a. The physician is subject to a disciplinary order of the board that restricts or rescinds the physician's authority to supervise or collaborate with a physician assistant. The physician may supervise or collaborative with a physician assistant to the extent that the order allows.

b. The physician does not have a written supervisory agreement in place with each physician assistant who is practicing in an independent practice arrangement, as defined in Iowa code section 148C.1(5) and supervised by the physician pursuant to 645 – 326.7.

645—326.6 (148C) Exemptions from this chapter. This chapter does not apply to the following:

326.6(1) A physician working in a federal facility or under federal authority when the provisions of this chapter conflict with federal regulations.

326.6(2) A physician who supervises a physician assistant providing medical care created by an emergency or a state or local disaster pursuant to Iowa Code section 148C.4(2).

326.6(3) A physician assistant who is not practicing in an independent practice arrangement, as defined in Iowa code section 148C.1(5).

326.6(4) A physician assistant who is practicing in an independent practice arrangement, as defined in Iowa code section 148C.1(5), who has met the criteria for 645 – 326.7 and 645 – 326.8, or who has met the criteria for 645 – 326.11.

645—326.7 (148C) Supervisory agreements.

326.7(1) A physician assistant who is practicing in an independent practice arrangement, as defined in Iowa code section 148C.1(5), and who has not previously practiced under a supervising physician or in collaboration with the appropriate physician or other health care professional for a period of at least two years will establish a written supervisory agreement with a physician for a period of at least two years. A sample supervisory agreement form is available from the board. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement will take into account the physician assistant’s demonstrated skills, training and experience, proximity of the supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician will maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement will, at a minimum, address the following provisions.

a. Review of requirements. The supervising physician and the physician assistant will review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code chapter 148C, these rules, and 645—Chapters 326 to 329.

b. Assessment of education, training, skills, and experience. Each supervising physician will assess the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant will ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. The method for assessing and providing feedback regarding the physician assistant’s education, training, skills, and experience will be reflected in the supervisory agreement.

326.7(2) The supervisory agreement between the physician assistant and the physician will address all of the following:

a. The medical services the supervising physician delegates to the physician assistant. The medical services and medical tasks delegated to and provided by the physician assistant will be in compliance with 645—subrule 327.1(1). All delegated medical services will be within the scope of practice of the supervising physician and the physician assistant.

b. Methods for communication between the physician assistant and the physician. Each supervising physician and physician assistant will conduct ongoing discussions and evaluation of the supervisory agreement, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services

provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted.

(1) The plan for completing and documenting chart reviews. A licensed physician within the same facility or health care system as the physician assistant will conduct an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice. The finding of the review will be discussed with the physician assistant in a manner determined by the practice in consultation with the physician assistant's primary supervising physician.

(2) The expectations and plan for alternate supervision. The supervising physician will ensure an alternate supervising physician is available for a timely consultation and will ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician.

645--326.8(148C) Two-year collaborative practice agreement.

326.8(1) For a period of two years following the completion of a minimum of two years of supervised practice pursuant to 645 – 326.7, a physician assistant in an independent practice arrangement, as defined in Iowa code section 148C.1(5), will establish and maintain a written collaborative practice agreement with a physician.

645--326.9 (148C) Eligibility determinants.

326.9(1) A physician with an active permanent, special, or temporary Iowa license who is actively engaged in the practice of medicine in Iowa may hold a collaborative practice agreement with a physician assistant. A physician is ineligible to serve as a collaborating physician under this chapter for any of the following reasons:

a. The physician is subject to a disciplinary order of the board that restricts or rescinds the physician's authority to supervise or collaborate with a physician assistant. The physician may collaborate with a physician assistant to the extent that the order allows.

b. The physician does not have a written collaborative practice agreement in place with each physician assistant who is practicing in an independent practice arrangement, as defined in Iowa code section 148C.1(5) and engaged in a collaborative practice arrangement pursuant to this chapter.

326.10(148C) Collaborative practice agreements.

326.10(1) The purpose of the collaborative practice agreement is to define the nature and extent of the collaborative practice relationship and the expectations of each party. The collaborative practice agreement will take into account the physician assistant's demonstrated skills, training, and experience, proximity of the collaborating physician to the physician assistant, and the nature and scope of the medical practice. The collaborating physician and the physician assistant will maintain a copy of the collaborative practice agreement and provide a copy of the agreement to the board upon request. The collaborative practice agreement will be signed by both the collaborating physician and the physician assistant, and at a minimum address the following provisions.

a. Methods for communication between the physician assistant and the physician. Each collaborating physician and physician assistant will conduct ongoing discussions and evaluation of the collaborative practice agreement, including expectations for both parties; the types of cases and situations when the collaborating physician can expect to be consulted; and the frequency and means of communication between the two parties. For purposes of this subparagraph, communication may consist of, but is not be limited to, in-person meetings or two-way,

interactive communication directly between the collaborating physician and the physician assistant via telephone, secure messaging, electronic mail, or chart review.

b. Expectations and plan for alternate collaboration. The physician assistant will ensure the primary or an alternate collaborating physician is available for a timely consultation regarding patient care and will ensure both the physician assistant and the primary or alternate collaborating physician is aware of the means by which to reach each other for communication.

c. The medical services provided by the physician assistant. The medical services and medical tasks provided by the physician assistant will comply with 645—subrule 327.1(1). All medical services will be within the scope of practice of the collaborating physician and the physician assistant.

645—326.11(148C) Out of state licensees

326.11(1) A physician assistant who has been previously licensed and practiced in another state and who obtains a license to practice in Iowa will be subject to the following requirements, if the physician assistant enters into an independent practice arrangement, as defined in Iowa code section 148C.1(5).

a. If the physician assistant has not previously been supervised by a physician for at least two years, the physician assistant will be supervised by a physician for a minimum of two years in compliance with 645 – 326.7 and will then establish a collaborative practice agreement for a minimum of two years in compliance with 645 – 326.8.

b. If the physician assistant has previously been supervised by a physician for at least two years, the physician assistant will establish a collaborative practice agreement for a minimum of two years in compliance with 645 – 326.10.

c. If the physician assistant has previously been supervised by a physician for at least four years, the physician assistant will practice in compliance with Iowa code section 148C.

645—326.12(148C) After two-year collaborative practice agreement

326.12(1) A physician assistant who enters into an independent practice arrangement, as defined in Iowa code section 148C.1(5), who has met the criteria for 645 – 326.7 and 645 –326.8 or who has met the criteria for 645 – 326.11, will practice in compliance with Iowa code section 148C.

645—326.13(148C) Collaboration with all members of the care team.

326.13(1) Pursuant to Iowa Code section 148C.4(3), the degree of collaboration between a physician assistant who has met the criteria in 645—326.5(1) and the appropriate member of a healthcare team will be determined at the practice level, and may involve decisions made by the medical group, hospital service, supervising physician, or employer of the physician assistant, or the credentialing and privileging system of a licensed health care facility.

645—326.14(148C) License renewal.

326.14(1) The license renewal period for a license to practice will begin on October 1 and end on September 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

326.14(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

326.14(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of rule 645—328.2(148C) and the mandatory reporting requirements of subrule 326.9(4). A licensee whose license was reactivated during the current renewal

compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Complete the online renewal application, pay the fee, and attach certificate of completing continuing education hours before the expiration date.

326.14(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa will indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)"*b*" in the previous three years, or condition(s) for waiver of this requirement as identified in paragraph 326.9(4)"*e*."

b. A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa will indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)"*b*" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 326.9(4)"*e*."

c. The course(s) will be the curriculum provided by the Iowa department of human services.

d. The licensee will maintain written documentation for three years after mandatory training as identified in paragraphs 326.9(4)"*a*" to "*c*," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 326.9(4)"*a*" to "*e*."

326.14(5) Upon receiving the information required by this rule and the required fee, a two-year license will be issued. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

326.14(6) A person licensed to practice as a physician assistant will keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

326.14(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

326.14(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—326.15(148C,88GA,ch1020) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "PA." A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title "PA" or "physician assistant" but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

645—326.16(148C) Address change. The physician assistant will notify the board of any change in permanent address within 30 days of its occurrence.

645—326.17(148C) Student physician assistant.

326.17(1) Any person who is enrolled as a student in an approved program will comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

326.17(2) Notwithstanding any other provisions of these rules, a student may perform medical services when they are rendered within the scope of an approved program.

645—326.18(148C) Recognition of an approved program pursuant to Iowa Code section 148C.2.

645—326.19(17A,147,272C) Requirements for reactivation. To apply for reactivation, a licensee will:

326.19(1) Complete an online reactivation application and pay the nonrefundable reactivation fee.

326.19(2) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Send verification. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Submit proof. Submit proof of completing 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must:

(1) Send verification. Submit a license verification document that discloses if disciplinary action was taken against applicant from every jurisdiction in which the applicant has been licensed.

(2) Verification of completing 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed will be in Category I, or NCCPA or successor agency certification.

645—326.20(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—326.19(17A,147,272C) prior to practicing as a physician assistant in this state.

645—326.21 Nothing in these administrative rules shall prevent employers from establishing additional employment criteria for the supervision and collaboration of a physician assistant.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	14
Proposed word count reduction after repeal and/or re-promulgation	-279

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	47
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ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?
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Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Inspections, Appeals, & Licensing	Date:	August 26, 2023	Total Rule Count:	21
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 327 Practice of Physician Assistants	Iowa Code Section Authorizing Rule:	147.10, 147.107, 148C and 272C.
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule articulates the medical scope of practice that a physician assistant can provide based on their education, training, and experience. It provides lowans, licensees, and their employers with more information on the accepted minimum standards for the practice of this profession in our state.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is being achieved through this rule that provides practice guidelines and standards for licensees to provide patient health care services.

What are the costs incurred by the public to comply with the rule?

There are costs to the licensee associated in meeting practice standards. These include minimum prerequisite training criteria for the provision of services, minimum practice and prescribing standards that a licensee must meet, and minimum standards for the provision of telemedicine services. The Board does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage the full scope of board activities, which includes oversight of practice standards, questions from licensees and the public, administration of board meetings, etc. An executive officer supports the work of this board at approximately 0.34 of an FTE. Staff salaries are covered by the Licensing and Regulation Fund established in SF 557, which is funded by licensure fees.

Do the costs justify the benefits achieved? Please explain.

The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing this important service to lowans. Since 2021, there have been just 48 complaints filed among the 2,165 licensees in the state. This relatively low level of complaints demonstrates that the rules are clearly articulating minimum acceptable standards for practice and helping licensees to establish practice arrangements that align with Iowa law.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation, however, licensure of physician assistants is the supported model for regulation in all 50 states. The standards for practice articulated in these rules could be reduced, however, the Board would have concerns about the potential for harm to Iowa patients. HF 424, which was enacted earlier this year, makes significant changes to the permissible practice arrangements for physician assistants in our state. This rule provides the foundational practice expectations that will help to guide licensees as they move into these new arrangements.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the restrictive and obsolete language was removed.

- 327.1 – Removes obsolete and restrictive language
- 327.2 – Removes language that recites statute.
- 327.3 – Removes place holder and renumbers proceeding rules.
- 327.4 – Removes obsolete language.
- 327.3 – Removes restrictive language.
- 327.4 – Removes restrictive language.
- 327.5 – Removes restrictive language.
- 327.6 – Removes obsolete language.
- 327.6 – Removes restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS

645—327.1(148C,88GA,ch1020) Duties. The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role

of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including but not limited to the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities, and nursing homes.

327.1(1) A physician assistant's duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

a. Administering any drug.

b. Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions including but not limited to durable medical equipment, nutrition, blood and blood products; and diagnostic support services including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.

c. A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:

(1) The physician assistant will have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with temporary licenses may order drugs and medical devices only with the prior approval and direction of a supervising physician or another collaborating health care professional. Prior approval may include discussion of the specific medical problems with a supervising physician or another collaborating health care professional prior to the patient being seen by the physician assistant.

(2) The physician assistant must comply with appropriate federal and state regulations.

(3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.

(4) The physician assistant may prescribe or order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124.

(5) A physician assistant who is practicing under a supervising physician pursuant to IAC 645—326.7 will not prescribe substances that the physician assistant's supervising physician does not have the authority to prescribe, except as allowed by paragraph 327.1(2) "n."

(5) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(6) A physician assistant may request, receive, and supply sample drugs and medical devices.

(7) The board of physician assistants will be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances, and medical devices.

d. Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.

(1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied will be for the purpose of accommodating the patient and will not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) A nurse or staff assistant may assist the physician assistant in supplying medications.

327.1(2) The medical services to be provided by the physician assistant also include, but are not limited to, the following:

a. The initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.

b. Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.

c. Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.

d. Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.

e. Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.

f. Assisting in surgery.

g. Prenatal and postnatal care and assisting a physician in obstetrical care.

h. Care of orthopedic problems.

i. Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram

or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.

- j.* Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.
- k.* Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders as delegated by the supervising physician.
- l.* Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).
- m.* Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.
- n.* Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.
- o.* Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.
- p.* Admit patients to a hospital or health care facility.
- q.* Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.
- r.* At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.
- s.* Direct medical personnel, health professionals, and others involved in caring for patients and the execution of patient care.
- t.* Authenticate medical forms by signing the form.
- u.* Perform other duties appropriate to a physician assistant's practice.
- v.* Health care providers will consider the instructions of a physician assistant to be authoritative.

327.1(3) Emergency medicine duties.

- a.* A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.
- b.* A physician assistant will document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.
- c.* A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.
- d.* Exceptions to this subrule include:
 - (1) A physician assistant who accompanies and is responsible for a transfer patient;
 - (2) A physician assistant who serves on a basic ambulance or rescue squad service; and
 - (3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

645—327.2(148C.9) Prohibition. No physician assistant engaged in independent practice, as defined in Iowa code section 148C.1(5), will be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

645—327.3(147,88GA,ch1020) Identification as a physician assistant. The physician assistant will be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

645—327.4(147) Prescription requirements.

327.4(1) Each written outpatient prescription drug order issued by a physician assistant will contain the following:

- a.* The date of issuance.
- b.* The name and address of the patient for whom the drug is prescribed.
- c.* The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.
- d.* The physician assistant's name and the practice address.
- e.* The signature of the physician assistant followed by the initials "PA."
- f.* The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

327.4(2) Each oral prescription drug order issued by a physician assistant will include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant's practice address.

327.4(3) Prior to prescribing an opioid, a physician assistant will review the patient's information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility patient care.

327.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

645—327.5(147) Supplying—requirements for containers, labeling, and records.

327.5(1) Containers. A prescription drug will be supplied in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

327.5(2) Labeling. A label bearing the following information will be affixed to a container in which a prescription drug is supplied:

- a. The name and practice address of the supervising physician and physician assistant.
- b. The name of the patient.
- c. The date supplied.
- d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.
- e. The name, strength and quantity of the prescription drug in the container.
- f. When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: “Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.”

327.5(3) Samples. Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package will be deemed to conform to labeling and packaging requirements.

327.5(4) Records. A record of prescription drugs supplied by the physician assistant to a patient will be kept which contains the label information required by paragraphs 327.7(2) “b” to “e.” Noting such information on the patient’s chart or record is sufficient.

645—327.6(147,148C,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the delegated provision of telemedicine services.

327.6(1) Telemedicine, generally.

- a. Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.
- b. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.
- c. Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.
- d. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

327.6(2) Definitions. For the purposes of this rule:

“*Asynchronous store-and-forward transmission*” means the collection of a patient’s relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

“*Board*” means the Iowa board of physician assistants.

“*In-person encounter*” means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

“*Licensee*” means a physician assistant licensed by the board.

“*Telemedicine*” means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine, for the purposes of this rule establishing standards of practice, does not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

“*Telemedicine technologies*” means technologies and devices enabling secure electronic communications and information

exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

327.6(3) Practice guidelines. A licensee who uses telemedicine will utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

327.6(4) License required. A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa will hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule will be construed to supersede the exceptions to licensure contained in rule 645—326.17(148C).

327.6(5) Standards of care and professional ethics. A licensee who uses telemedicine will be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

327.6(6) Scope of practice. A licensee who uses telemedicine will ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, ability, licensure, and certification.

327.6(7) Identification of patient and physician assistant. A licensee who uses telemedicine will verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

327.6(8) Physician assistant-patient relationship.

a. A licensee who uses telemedicine will establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.

b. A valid physician assistant-patient relationship may be established by:

- (1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;
- (2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or
- (3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

327.6(9) Medical history and physical examination. Generally, a licensee will perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine will interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

327.6(10) Non-physician assistant health care providers. If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee will:

- a.* Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;
- b.* Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

327.6(11) Informed consent. A licensee who uses telemedicine will ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

327.6(12) Coordination of care. A licensee who uses telemedicine will, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the

telemedicine services. The licensee will provide a copy of the medical record to the patient's medical home or treating clinician(s).

327.6(13) Follow-up care. A licensee who uses telemedicine will have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

327.6(14) Emergency services. A licensee who uses telemedicine will refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

327.6(15) Medical records. A licensee who uses telemedicine will ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician assistant-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee will note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee will ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee will ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

327.6(16) Privacy and security. A licensee who uses telemedicine will ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act (HIPAA) to ensure that all patient communications and records are secure and remain confidential.

a. Written protocols will be established that address the following:

- (1) Privacy;
- (2) Health care personnel who will process messages;
- (3) Hours of operation;
- (4) Types of transactions that will be permitted electronically;
- (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
- (6) Archiving and retrieval; and
- (7) Quality oversight mechanisms.

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols will include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

327.6(17) Technology and equipment. Broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine will comply with the following requirements:

a. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. The technology and equipment utilized in the provision of telemedicine services must be compliant with the HIPAA.

327.6(18) Disclosure and functionality of telemedicine services. A licensee who uses telemedicine will ensure that the following information is clearly disclosed to the patient:

- a. Types of services provided;
- b. Contact information for the licensee;
- c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;
- d. Limitations in the drugs and services that can be provided via telemedicine;
- e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;
- f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
- g. Appropriate uses and limitations of the technologies, including in emergency situations;
- h. Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;
- i. To whom patient health information may be disclosed and for what purpose;
- j. Rights of patients with respect to patient health information; and
- k. Information collected and passive tracking mechanisms utilized.

327.6(19) Patient access and feedback. A licensee who uses telemedicine will ensure that the patient has easy access to a mechanism for the following purposes:

- a. To access, supplement and amend patient-provided personal health information;
- b. To provide feedback regarding the quality of the telemedicine services provided; and
- c. To register complaints. The mechanism will include information regarding the filing of complaints with the board.

327.6(20) Financial interests. Advertising or promotion of goods or products from which the licensee receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees will not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

327.6(21) Circumstances where the standard of care may not require a licensee to personally interview or examine a patient. Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

- a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;
- b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;
- c. Call situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- e. Emergency situations in which the life or health of the patient is in imminent danger;
- f. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- g. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient’s named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and
- h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

327.6(22) Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited. Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician assistant-patient relationship, a licensee’s prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 327.9(21).

These rules are intended to implement Iowa Code sections 147.10 and 147.107 and chapters 148C and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	6
Proposed word count reduction after repeal and/or re-promulgation	792
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	47

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

**Red Tape Review Rule Report
(Due: September 1, 20 23)**

Department Name:	Inspections, Appeals, & Licensing	Date:	August 22, 2023	Total Rule Count:	3
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 328 Continuing Education for Physician Assistants	Iowa Code Section Authorizing Rule:	148C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for physician assistants. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that physician assistants maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that physician assistant meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practices which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There are no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required. Through membership, the NCCPA offers CE to licensees for \$180 over every two-year cycle. Licensees can obtain CE through other multiple on-line providers. Estimates for continuing education can range anywhere between \$180 - \$400 based on the course. Some employers will absorb the cost of licensees' continuing education.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.34 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states do successfully manage continuing education programs with fewer hours required per renewal cycle.

Staff will hold a conversation with members at the next board meeting to discuss possible recommendations for decreasing the continuing education requirements. That recommendation may occur when the rules are presented for notice of intended action. Following are state comparisons in biannual CE requirements.

- Kansas – complete 50 hours of CME for each annual renewal period. Of the 50 CME hours, 20 must be Category 1 and at most 30 can be Category 2.
- Nebraska – 50 CME hours of AMA PRA Category 1 every two years or meet certification standards through the NCCPA.
- Minnesota – complete 50 contact hours of Category 1 of CME every two years or meet certification standards through the NCCPA.
- South Dakota – complete 30 hours of CME annually or meet certification standards through the NCCPA.
- Wisconsin – complete 100 hours of CME every two years and pass recertification exams every 10 years to maintain NCCPA certification.
- Illinois – complete 100 hours of CME every two years and pass recertification every 10 years to maintain NCCPA certification.
- Iowa – complete 100 hours of CME in which 50 are designated as Category I and the remaining 50 in either a designated Category 1 or 2. For licensees who have prescribed opioids to a patient during the renewal cycle are required to complete a minimum of two hours of CE on guidelines for prescribing opioids.

For PAs who want to maintain NCCPA certification, the 10-year certification maintenance process includes five two-year cycles during which all certified PA's must log 100 CME credits online with the submission of a \$180 certification maintenance fee.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

328.1 – removes restricted language.
328.2 - removes restricted language.
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328.8 – Rescind place holder.
328.9 – Rescind place holder.
328.10 – Rescind place holder.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 328
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

645—328.1(148C) Definitions. For the purpose of these rules, the following definitions will apply:

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of physician assistants.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“License” means license to practice.

“Licensee” means any person licensed to practice as a physician assistant in the state of Iowa.

645—328.2(148C) Continuing education requirements.

328.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee will be required to complete a minimum of 100 hours of continuing education approved by the board.

328.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

328.2(3) A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

645—328.3(148C,272C) Standards.

328.3(1) *General criteria.* A continuing education activity is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.

328.3(2) *Specific criteria.* Continuing education requirements are as follows:

a. The licensee will complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians or other organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME).

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II credit, as accepted by the National Commission on Certification for Physician Assistants (NCCPA), will satisfy the CME requirements. In case of audit, licensees will provide evidence of NCCPA certification during the time period being audited or an activity log for all Category II credits for which a certificate of completion is not available. The activity log will list for each activity the date and type of activity and number of hours claimed per activity.

c. Licensees who maintain certification by the National Commission on Certification for Physician Assistants (NCCPA) may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA for the time period being reviewed or audited.

d. A licensee who has prescribed opioids to a patient during the renewal cycle will complete a minimum of two hours of continuing education regarding the guidelines for prescribing opioids for chronic pain, as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. These hours may count toward the 100 hours of continuing education required for license renewal. The licensee will maintain documentation of these hours, which may be subject to audit.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	182
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	10

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

**Red Tape Review Rule Report
(Due: September 1, 20 23)**

Department Name:	Inspections, Appeals, & Licensing	Date:	August 28, 2023	Total Rule Count:	9
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 329 Discipline for Physician Assistants	Iowa Code Section Authorizing Rule:	148C, 147 & 272C
Contact Name:	Susan Reynolds	Email:	Susan.reynolds@idph.iowa.gov	Phone:	515-281-5234

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines professional standards for physician assistants. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to physician assistants and are excluded from the general disciplinary chapter. The grounds for discipline required in this rule related to opioid prescribing are required by Iowa Code chapter 147.162.

Is the benefit being achieved? Please provide evidence.

In 2022, the Board opened 14 complaints involving the standard of care. This profession requires a high-skill level of competency and practice standards. This rule creates a process for holding accountable those licensees who fail to meet the minimum standards articulated in rule and statute. This profession is regulated across all states.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, minimum professional standards of practice are associated with costs to the licensed professional. The licensee is responsible for obtaining the necessary prerequisite training to obtain and maintain these minimum practice standards. The costs of this are the responsibility of the licensee. The Board is unable to assess a specific cost related to these requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to

manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.34 of an FTE. This includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

Because there are only a small number of complaints submitted, costs of this rule are extremely low. The Board believes that the low cost does justify the benefits achieved because the physician assistants are practicing medicine, which requires skill and precision to protect patient safety.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive health care from competent practitioners. There has been some standardization of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between this chapter and the common law chapter 13 Discipline, in accordance with EO10.

329.2(1) - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline.

329.2(4) - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline.

329.2(6-24) - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

329.2(26-28) - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

329.2(30) – incorporates provisions of HF 424.

329.3 - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

329.4 - rescinded from this chapter and promulgated in common rule Chapter 13 Discipline

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 329
DISCIPLINE FOR PHYSICIAN ASSISTANTS

645—329.1(148C) Definitions.

“*Board*” means the board of physician assistants.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a physician assistant in Iowa.

645—329.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section (272C.3) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645—Chapter 13:

329.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.
- e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

329.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

329.2(3) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

329.2(4) Representing oneself as a physician assistant when one’s license has been suspended or revoked, or when one’s license is on inactive status, except as provided by rule 645—326.15(148C,88GA,ch1020).

329.2(5) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

329.2(6) The performance of a medical function without approved supervision, if supervision is required pursuant to 645—326.7 and 645—326.8, except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

329.2(7) Prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	1,179
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/11/2023	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 351	Iowa Code Section Authorizing Rule:	17A, 147, 152D and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to set minimum standards of entry into the athletic training profession. Iowa residents, licensees, and employers benefit from the rule as it clarifies the processes by which licensees may apply for licensure as athletic trainers, as directed in statute.

The rule publicly illustrates the process that will be used to license athletic trainers and athletic trainer assistants, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The rule describes the application process, educational qualifications, and exam requirements. The rule also provides steps for documentation of physician direction and athletic training plans for direct service.

Is the benefit being achieved? Please provide evidence.

Yes. The rule satisfies the statutory requirement, establishing a clear process for obtaining a license and ensuring only qualified individuals are permitted to enter the profession.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the required education and licensure costs to become an Iowa licensed athletic trainer:

Education: Baccalaureate degree
 Exam fee: \$375 BOC exam
 Application fee: \$120 (please note application fees are addressed in IAC 645-5.1)

In comparison, Nebraska requirements are below:
 Education: Baccalaureate degree
 Exam fee: \$375 BOC exam
 Application fee: \$117

Minnesota requirements are below:
 Education: Education program approved by the Board [Minnesota Statute 148.7808(2)(x)]
 Exam fee: \$375 BOC exam

Application fee: \$183.25 (includes a criminal background check)

The application process is similar to those implemented by other state boards of athletic training.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or license reinstatement. Licensure by consent agreements and discipline imposed by the board are monitored by office staff.

Complaints are investigated with letters, phone calls and in-person interviews. Where appropriate, referrals are made to the impaired practitioner program.

Do the costs justify the benefits achieved? Please explain.

The costs justify the benefits achieved. Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that lowans are treated by competent and qualified practitioners with knowledge of topics pertinent to the profession to ensure the safety and welfare of the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a more cost effective alternative to the current internal process utilized for licensure review and compliance audits. The Board believes all current requirements assure public safety and ensure a minimum competency of service is provided to lowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of lowans if this were to occur.

In addition, the rule provides consistency related to the licensure of athletic trainers across the United States.

DIAL – Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

351.1: Amended the following definitions by removing redundant or obsolete language or incorporated by referral to statute: "Athlete", "Athletic injury", "Athletic Trainer", "Athletic Training", "Reciprocal License" "Reinstatement"

351.1: Amended the following definitions by adding the terms or incorporated by referral to statute: "Endorsement", "Mandatory reporter training".

351.2: Amended by removing redundant or obsolete language and reordering the sub-rules.

351.9: Renumbered.

351.15 -351.16: Renumbered.

RULES PROPOSED FOR REPEAL (list rule number[s]):

351.8 was Reserved.

351.10 to 351.14 was Reserved.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 351
LICENSURE OF ATHLETIC TRAINERS

645—351.1(152D) Definitions. In addition to the definitions included in Iowa Code Section 152D.1 the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of athletic training created under Iowa Code chapter 147.

"BOC" means the Board of Certification or its successor organization.

"Directing physician" means a physician who supervises the athletic training services provided by a licensed athletic trainer.

"Direction" means that a physician directs the performance of a licensed athletic trainer in the development, implementation, and evaluation of an athletic training service plan as set out in 645—351.6(152D). Direction shall not be construed as requiring the personal presence of that physician at each activity of the licensed athletic trainer. It is the responsibility of the licensed athletic trainer to ensure that the practice of athletic training is carried out only under the direction of a licensed physician.

"Endorsement" means the issuance of an Iowa license to practice athletic training to an applicant who is currently licensed in another state who has the same or similar qualifications to those required in Iowa.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Licensee" means any person licensed to practice as an athletic trainer in the state of Iowa.

"License expiration date" means February 28 of each odd-numbered year.

"Mandatory reporter training" means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code section 323.69 and Iowa Code section 235B.16.

"Physical reconditioning" means the part of the practice of athletic training which combines physical treatment, rehabilitation and exercise and is carried out under the orders of a physician or physician assistant. Physical treatment is part of a service plan which includes but is not limited to the continued use of any of the following: cryotherapy, thermotherapy, hydrotherapy, electrotherapy, or the use of mechanical devices.

"Physician" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 645—351.15(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in 645—11.31(272C). Once the license is reinstated, the licensee may

apply for active status.

645—351.2(152D) Initial licensure.

351.2(1) *Requirements for licensure.* The applicant shall:

351.2(2) Submit a complete online application and pay the non refundable fee specified in 645- 5.1. If the application is not completed according to the instructions, the application will not be reviewed by the board.

351.2(3) Submit official copies of academic transcripts directly from the school to the board of athletic training. No application will be considered by the board until official copies of academic transcripts have been received.

351.2(4) Have successfully completed the BOC examination. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the Iowa board of athletic training.

351.2(5) Provide verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction.

a. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary actions taken against the license.

351.2(6) Licensure by endorsement. An athletic trainer applicant who holds a license from the District of Columbia or another state, territory, province or foreign country may be eligible for licensure by endorsement and may direct the BOC to submit:

- a. A current certification status, or
- b. A passing score on the examination of the BOC s.

351.2(7) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

351.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—351.3(152D) Educational qualifications.

351.3(1) An applicant for licensure to practice as an athletic trainer shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university.

351.3(2) Foreign-trained athletic trainers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; website www.ierf.org or email at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation. An applicant who has passed the BOC examination is exempt from this requirement.

b. Provide a copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated. An applicant who has passed the BOC examination is exempt from this requirement.

c. Receive a final determination from the board regarding the application for licensure.

d. Pass the BOC examination. Official results are to be submitted directly to the board from the BOC.

351.3(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

645—351.4(152D) Examination requirements.

351.4(1) The examination required by the board shall be the BOC examination. Application and information may be obtained from the BOC Offices, 1415 Harney Street, Suite 200, Omaha, NE 68102; telephone (402)559-0091; website

www.bocatc.org or email at BOC@bocatc.org.

351.4(2) The applicant has responsibility for:

- a.* Making arrangements to take the national examination; and
- b.* Arranging to have the examination scores sent directly to the board from BOC.

645—351.5(152D) Documentation of physician direction. Each licensee must maintain documentation of physician direction. It is the responsibility of the licensee to ensure that documentation of physician direction is obtained and maintained, including the following:

1. Athletic training service plan as set out in 645—351.6(152D);
2. Dates and names of physician and physician assistant orders or referrals;
3. Initial evaluations and assessments;
4. Treatments and services rendered, with dates; and
5. Dates of subsequent follow-up care.

645—351.6(152D) Athletic training standards of professional practice. Athletic training service plans shall be composed of the following components as taken from the Board of Certification Standards of Professional Practice or standards from its successor as determined by the board of athletic training.

645—351.7(147) License renewal.

351.7(1) The biennial license renewal period for a license to practice athletic training shall begin on March 1 of each odd-numbered year and end on February 28 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

351.7(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

351.7(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—352.2(152D) and the mandatory reporting requirements of subrule 351.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

351.7(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. The course(s) shall be the curriculum provided by the Iowa department of human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

351.7(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

351.7(6) A person licensed to practice as an athletic trainer shall keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

351.7(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on

the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

351.7(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an athletic trainer in Iowa until the license is reactivated. A licensee who practices as an athletic trainer in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—351.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

351.8(1) Submit a reactivation application on a form provided by the board.

351.8(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

351.8(3) Provide verification of current competence to practice as an athletic trainer by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of application for reactivation; and

(3) Verification of current BOC certification.

351.8(4) Submit a sworn statement of previous practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant worked as an athletic trainer for at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

645—351.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—351.15(17A,147,272C) prior to practicing as an athletic trainer in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	506

Proposed number of restrictive terms eliminated after repeal and/or re-promulgation

6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

Red Tape Review Rule Report
(Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/26/2023	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 352	Iowa Code Section Authorizing Rule:	17A, 147, 152D and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for athletic trainers in Iowa. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of this rule is to provide the licensees, service providers, schools, continuing education providers, and employers clarity regarding the processes licensees must complete for renewal or reactivation of licensure.

Is the benefit being achieved? Please provide evidence.

The Board believes the benefit is achieved, because it requires athletic trainer licensees to meet specific continuing education requirements to ensure up-to-date knowledge on practical service related skills. This ensures that licensees are familiar with best practices in an evolving field, leading to higher quality services for Iowa patients. While the Board is not aware of specific data to prove this correlation, continuing education requirements are a widely utilized mechanism across the country to ensure licensed professions maintain current knowledge in their field of practice.

What are the costs incurred by the public to comply with the rule?

There is no direct costs to the public. There is a direct cost to the licensee who must pay for the continuing education required.

Iowa requires licensees to obtain 50 CEUS every two years. The cost to obtain continuing education is quite variable depending on the focus of the practitioner and may range anywhere from free to more than \$50 per hour. Typically, conferences charge approximately \$10-15/hr per CEU. Some state licensing boards require licensees to obtain Board of Certification (BOC) certification as a condition of licensure. This certification requires 50 CEU hours every two years. Recertification is \$39 for NATA members and \$55 for non-members.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities is approximately 0.04 of an FTE, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. This includes answering questions

from the public and licensees such as practice standards, continuing education, board meeting administration, etc.

Staff salaries to support the work of the board are covered by the Licensing & Regulation Fund established in SF 557. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for licensees. Eliminating continuing education requirements would likely lead to an increase in the number of complaints and investigations that the Board would need to conduct, and increase the potential for harm to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce or eliminate continuing education requirements. The Board does not recommend a change in continuing education hours at this time. Iowa's continuing education requirements are in line with neighboring states and the BOC certification.

Iowa requires Athletic Trainers [AT] to complete 50 hours every 2 years or provide proof of current BOC certification in lieu of individual certificates of completion for an audit .

Surrounding states' continuing education requirements are as follow:

- Kansas : 20 hours annually
- Illinois: 40 hours every 2 years
- Nebraska: 25 hours every 2 years and must have an active CPR certificate
- Missouri: Must maintain an active BOC certification.
- South Dakota: 25 hours annually or possess an active BOC certification
- Minnesota: Must possess an active BOC certification.

DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to implement the updated rules as dictated by statute for the merger of the board of barbering with the board of cosmetology arts and sciences and to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed. 645-203.1 – Amended the following definitions by removing redundant language which exists in statute and incorporated by referral: ""Continuing education". 645-352.2 – Amended by removing redundant and restrictive language and reordered sub-rules.

352.3 – Amended by removing redundant and restrictive language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

N/A

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 352
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

645—352.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Continuing education*” means the same as the definition in Iowa Code 272C.1

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

645—352.2(152D) Continuing education requirements.

352.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on March 1 of each odd-numbered year and ending on February 28 of the next odd-numbered year. Each biennium, each person who is licensed to practice as an athletic trainer in this state will have the responsibility to finance the cost and be required to complete a minimum of 50 hours of continuing education approved by the board.

352.2(2) Requirements for new licensees. Those persons licensed for the first time or being licensed for the first time after a temporary license shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

352.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

352.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

645—352.3(152D,272C) Standards.

352.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

352.3(2) Specific criteria. Continuing education may be obtained through any of the following:

a. Completing a course provided by a BOC-approved provider of continuing education.

b. Attending workshops, conferences, or symposiums.

c. Authoring research, the results of which are published in a recognized professional publication. A licensee shall receive five hours of credit per page.

d. Presenting professional programs that meet the criteria of this chapter. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presenting at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed, nor does it include presentations to the lay public. A licensee may be granted no more than ten hours of continuing education

credit per biennium for presenting professional programs.

e. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of athletic training must be maintained for audit.

Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours
1 academic trimester hour = 12 continuing education hours
1 academic quarter hour = 10 continuing education hours

645—352.4(152D,272C) Audit of continuing education report. In addition to the requirements of 645—4.11(272C), proof of current BOC certification shall be accepted in lieu of individual certificates of completion for an audit.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152D.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	262
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

N/A

**Red Tape Review Rule Report
(Due: September 1, 3533)**

Department Name:	Division of Licensing	Date:	8/26/2023	Total Rule Count:	2
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 353	Iowa Code Section Authorizing Rule:	17A, 147, 152D and 272C
Contact Name:	Venus Vendoures Walsh	Email:	venus.vendoures-walsh@dial.iowa.gov	Phone:	515-242-65295

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner’s license.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the athletic training licensees and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The benefit is being achieved as the board has needed to initiate licensee discipline on only a handful of founded violations. The low number of public discipline cases demonstrates the effectiveness of the continuing education requirements in ensuring licensees are remaining current in their professional knowledge and providing quality care to lowans.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are associated with costs to the licensed professional/establishment.

Licensees may be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fine amounts are not established in rule for these licensees and are determined by the Board.

The Board has statutory authority to impose a civil penalty on individuals practicing without a license.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee takes action that is grounds for discipline. The

time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer, licensure specialist and investigator supports the full scope of this work at 0.04 of an FTE. This additionally includes answering questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

The Board believes the costs justify the benefits achieved. The cost of inaction would increase the potential for injury to the public, by allowing licensed providers to continue providing services without correction, education, or any form of discipline.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Board has not identified a less restrictive alternative to public protection. There could be a consideration of reducing or eliminating professional standards and grounds for discipline, but the Board believes that these requirements are important in order to ensure that lowans receive services from competent practitioners. There has been some standardization of consideration of criminal convictions.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

353.1: Amended the following definition by adding “pursuant to Iowa Code chapter 148A and 645— Chapters 351 to 353, Iowa Administrative Code”: “Licensee”.

353.2: Amended by adding reference to common chapter 645 IAC 13(272C) and referral to Iowa Code Chapter 147.55, and eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

353.2(1): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

353.2.(3) - 353.2(12): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

353.2(14): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

353.2(16) - 353.2(24): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

353.2(26):

353.2(28) to 353.2(32): Eliminated redundancies that occur in the common chapter 645 IAC 13(272C).

353.3 - 353.4: Eliminated redundancies that occur in the common chapter 645 IAC 13(272C)

RULES PROPOSED FOR REPEAL (list rule number[s]):

353.2(1)
 353.2.(3) - 353.2(12)
 353.2(14)
 353.2(16) - 353.2(24)
 353.2(26)
 353.2(28) to 353.2(32)
 353.3 to 353.4

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 353
 DISCIPLINE FOR ATHLETIC TRAINERS

645—353.1(152D) Definitions.

“*Board*” means the board of athletic training.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice pursuant to Iowa Code chapter 152D and 645—Chapters 351 to 353, Iowa Administrative Code as an athletic trainer in Iowa.

645—353.2(152D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—353.3 645-13 (152D,147, 272C) when the board determines that any of the following acts or offenses listed in such rule have occurred:

353.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

353.2(2) Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

353.2(3) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of athletic training in another state, district, territory or country.

353.2(4) Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

353.2(5) Representing oneself as a licensed athletic trainer when one’s license has been suspended or revoked, or when one’s license is on inactive status.

These rules are intended to implement Iowa Code chapters 147, 152D and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	1367
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Division of Licensing	Date:	8/7/23	Total Rule Count:	10
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 361, Licensure of Sign Language Interpreters and Transliterators	Iowa Code Section Authorizing Rule:	154E, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of the rule is to set minimum standards for entry into the sign language interpreter and transliterator profession. Iowa residents, licensees and employers benefit from the rule as it articulates the processes by which individuals apply for licensure as a sign language interpreter or transliterator in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications and exam requirements.

Is the benefit being achieved? Please provide evidence.

The benefit of the rule is achieved as only qualified individuals are permitted to enter the profession. Additionally, the rule satisfies the statutory requirement.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the general public, but there is a cost to the applicant as complying with the minimum requirements to enter into the profession are at the expense of the licensee. This includes the below:

Required education and licensure costs to become an Iowa licensed hearing aid specialist are:

Education: no educational requirements

Exam fee: multiple options, approximately \$250-500

Application fee: \$120 (Please note application fees are addressed in IAC 645-5.12)

In comparison, Minnesota requirements (do not require licensure, but require the following to interpret in an educational setting):

Education: Interpreter training program and be a member of RID

Exam fee: multiple options, approximately \$250-500

Application fee: unknown

In comparison, Nebraska requirements are below:

Education: HS or college diploma

Exam fee: multiple options, approximately \$250-500

Application fee: \$150

Iowa's initial licensure application process is similar to those implemented by other state boards of sign language interpreters.

What are the costs to the agency or any other agency to implement/enforce the rule?

Staff salaries to support the work of the board are covered by the licensing and Regulation Fund established in SF 557. It takes roughly .35 of an FTE to review application materials. Licensing fees go to the Fund to cover the operations of the regulated professional licensing boards.

Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or licensure reinstatement.

Do the costs justify the benefits achieved? Please explain.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated by competent and qualified practitioners.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation could be viable. As of 2022, there were 22 states that do not license sign language interpreters, although some have other regulations. The Board believes current requirements assure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. Interpreters are working with clients in settings that require a high level of accuracy and proficiency such as educational, medical and criminal. Inaccurate interpreting could cause significant harm to the public.

Due to state government alignment this Board is now part of the Department of Inspections, Appeals and Licensing. DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort. DIAL is actively pursuing a single licensing platform to assist in standardizing licensing.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

361.1: Removed redundant and obsolete language from the definitions, replaced restrictive terms with less restrictive alternatives
361.2: Removed redundant language, replaced restrictive terms with less restrictive alternatives
361.3: Removed redundant language, replaced restrictive terms with less restrictive alternatives
361.4: Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives
361.5: Removed redundant language, replaced restrictive terms with less restrictive alternatives
361.9: Removed redundant and obsolete language
361.10: Removed redundant and obsolete language

RULES PROPOSED FOR REPEAL (list rule number[s]):

361.6-8: Reserved chapters currently

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361 LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 362 CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 363 DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361
LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions will apply:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting will not be included in the time spent personally providing interpreting or transliterating services.

“Active license” means a license that is current and has not expired.

“Board” means the board of sign language interpreters and transliterators.

“Direct supervision of a temporary license holder” means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs 361.3(4) “b” and “c.”

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—361.9(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria applies to licensure:

- a. Applicants will submit a completed online licensure application and pay the non-refundable fee; and
- b. Applicants will provide proof of one of the following:
 - (1) Passes the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or
 - (2) Passes one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):
 1. Oral Transliteration Certificate (OTC); or
 2. Certified Deaf Interpreter (CDI); or
 - (3) Passes the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or
 - (4) Passes the Cued Language Transliterators National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Transliterators; or
 - (5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):
 1. National Interpreter Certification (NIC); or
 2. National Interpreter Certification Advanced (NIC Advanced); or
 3. National Interpreter Certification Master (NIC Master); or
 - (6) Currently holds one of the following certifications previously awarded by the RID:
 1. Certificate of Interpretation (CI); or
 2. Certificate of Transliteration (CT); or
 3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or
 4. Interpretation Certificate/Transliteration Certificate (IC/TC); or
 5. Comprehensive Skills Certificate (CSC); or
 - (7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):
 1. NAD III (Generalist); or
 2. NAD IV (Advanced); or
 3. NAD V (Master); or
 - (8) Currently holds an advanced or master certification awarded by the Board for Evaluation of Interpreters (BEI).

361.2(2) Licensees who were issued their licenses within six months prior to the renewal will not be required to renew their licenses until the renewal cycle two years later.

(9) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

(10) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a) Licensee's name;
- b) Date of initial licensure;
- c) Current licensure status; and
- d) Any disciplinary action taken against the license.

645—361.3(154E) Requirements for temporary license.

361.3(1) An applicant who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 361.2(1) "d" will provide verification the applicant has passed one of the following:

- a. The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b. The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c. The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d. The EIPA prehire examination at the highest recommended level;
- e. The EIPA performance test;
- f. An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited

college or university.

- g. The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- h. The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

361.3(2) Submit a written supervisory agreement that complies with the requirements stated in subrule 361.3(4). The temporary license will be valid for two years from the initial issue date, and may be renewed once for the immediately following two-year period.

361.3(3) A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled:

- a. Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs 361.3(4) “b” and “c.” The supervisor will possess a full, unrestricted sign language interpreter and transliterator license. The agreement will be signed and dated by the temporary license holder and the supervisor; will include the temporary license holder’s and supervisor’s names, addresses and contact information; and will be provided to the board with the application for a temporary license.
- b. Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year for at least 30 minutes each, if the temporary license holder is working alone, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation.
- c. Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor’s suggestions for the temporary license holder’s professional skill development based on the observation sessions.
- d. Maintain an event log documenting the date, time, length and setting of each observation session and advisory session. This event log will be submitted with the temporary license holder’s renewal application.
- e. Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.
- f. If the replacement of a supervisor becomes necessary, the temporary license holder will develop a new written agreement with the new supervisor.
- g. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

361.3(4) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule 361.3(4) is obligated to report to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 to 363.

645—361.4(154E) Licensure by endorsement.

361.4(1) An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction will file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Meets the requirements of 645-361.2
- b. Shows evidence of licensure requirements that are similar to those required in Iowa;
- c. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;

361.4(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator will begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee applying for renewal will:

- a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee, and attach verification of completion of continuing education hours on the website before the license expiration date.

361.5(4) A two-year license will be issued after the requirements of the rule are met. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

645—361.6(17A,147,272C) License reactivation.

361.6(1) Submit a completed online reactivation application and pay the non-refundable fee.

361.6 (2) If licensed in another jurisdiction, submit a license verification document that discloses disciplinary action taken against the license in the jurisdiction where the applicant was most recently licensed. The document should come directly from that jurisdiction .

361.6(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license) from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. The licensee’s name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; or

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

5. 1. The licensee’s name;
6. 2. The date of initial licensure;
7. 3. Current licensure status; and
8. 4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; or

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

645—361.7(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing sign language interpreting or transliterating in this state.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	3134-2304= 830
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	38

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/10/23	Total Rule Count:	7
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 362	Iowa Code Section Authorizing Rule:	154E, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This rule sets forth continuing education requirements for sign language interpreters and transliterators. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rule, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that sign language interpreters and transliterators maintain up-to-date practice standards and, as a result, provide high quality services to lowans.

Is the benefit being achieved? Please provide evidence.

The board believes the benefit is being achieved because it requires that sign language interpreters and transliterators meet specific continuing education requirements and continually update their knowledge base regarding their practice. This ensures that licensees understand best practice, which allows them to provide the best care to lowans and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long standing belief that boards around the country have held, as is evidenced the fact that most other boards around the country require some form of continuing education.

What are the costs incurred by the public to comply with the rule?

There is no direct cost to the public. There is a direct cost to the licensee who must pay for the continuing education required. Private industry offers these courses so the board is not privy to exact costs. Manufacturers offer many free options for licensees. Licensees in Iowa reported online continuing education is often provided for \$10 per hour/CEU. Quarterly ISRDID workshops are often free, but the yearly conference costs licensees. Conferences tend to cost licensees approximately \$20-30 per CEU. Some employers also provide CEU's for free. Some continuing education activities can cost up to \$60 per CEU.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this board at approximately 0.35 of an FTE, which includes questions from the public and licensees such as practice standards, continuing education, board meeting administration, etc. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557. Licensing fees go

to the Fund to cover the operations of the regulated professional licensing boards.

Do the costs justify the benefits achieved? Please explain.

The board believes that the costs justify the benefits achieved. The purpose of continuing education is to ensure ongoing competency for providers. The board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the board would need to conduct, but the board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that other states do successfully manage continuing education programs with fewer hours required per renewal cycle. Currently, Iowa requires 40 hours of continuing education every two years. A review of surrounding states indicates that Missouri requires 20, Nebraska requires 24, Kansas requires 30 and Illinois and South Dakota require 40 hours. After discussions with the Board regarding this topic, representatives of the board were not in agreement to reduce the total number of hours of continuing education.

The DIAL- Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These rule edits support this effort.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 362.1 Removed redundant and obsolete language from the definitions
- 362.2 Removed redundant language, replaced restrictive terms with less restrictive alternatives
- 362.3 Removed redundant and obsolete language, replaced restrictive terms with less restrictive alternatives

RULES PROPOSED FOR REPEAL (list rule number[s]):

362.4-7- previously rescinded

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 362

CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—362.1(154E,272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of sign language interpreters and transliterators.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—362.2(154E,272C) Continuing education requirements.

362.2(1) Requirements for permanent licensees. The continuing education compliance period runs concurrently with each two-year renewal period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each person who is licensed to practice as a sign language interpreter or transliterator in this state will be required to complete a minimum of 40 hours of continuing education as specified in rule 645—362.3(154E).

362.2(2) Exception for new permanent licensees. A person licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of the license. Thereafter, the new licensee will complete the continuing education requirements as set forth in rule 645—362.3(154E). The licensee may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements.

362.2(3) NIC or RID Certification. A licensee who provides proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification meets continuing education requirements for that biennium renewal cycle.

362.2(4) Requirements for temporary license holders. The continuing education compliance period runs concurrently with each two-year renewal period beginning on the date of initial licensure. Temporary license holders will be required to obtain 40 hours of continuing education as set forth in rule 645—362.3(154E). The temporary license holder may use only continuing education hours acquired during the current renewal period. Proof of continuing education hours acquired will be submitted with a temporary license renewal application.

362.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

362.2(6) No hours of continuing education will be carried over into the next renewal period.

362.2(7) The licensee is responsible for the cost of continuing education.

645—362.3(154E,272C) Standards.

362.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Is an organized program of learning fundamental to the practice of the profession which contributes directly to the professional competency of the licensee;

b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

c. Fulfills stated program goals, objectives, or both; and

d. Provides proof of attendance including:

(1) Date, location, course title, presenter(s);

- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

362.3(2) Specific criteria.

a. Continuing education will be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing and are:

(1) Educational activities including lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the Registry of Interpreters for the Deaf (RID) Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of CEUs required which is defined in 362.3(2) "b." RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

b. Each renewal period, licensees will obtain 40 hours (4 CEUs) of continuing education, including no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board will accept proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours
 1 academic quarter hour = 10 continuing education hours
 1 CEU = 10 continuing education hours

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1105-883=222
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	13

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	Division of Licensing	Date:	8/1/23	Total Rule Count:	4
IAC #:	645	Chapter/ SubChapter/ Rule(s):	Chapter 363	Iowa Code Section Authorizing Rule:	154E, 272C, 147, 17A
Contact Name:	Jessica O'Brien	Email:	Jessica.obrien@dia.iowa.gov	Phone:	515-281-6352

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rule provides protection to lowans because it publicly defines required professional standards for sign language interpreters and transliterators. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met it can subject a licensee to discipline against their license. lowans have the ability to submit a complaint to the licensing board, who can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined; ensuring that the public is protected.

The 19 Boards in the legacy HHS Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the sign language and transliterator profession and are therefore excluded from the general disciplinary chapter.

Is the benefit being achieved? Please provide evidence.

The Sign Language Interpreter and Transliterator Board receives a low number of complaints. In 2022, there were two complaints submitted and issued no public discipline. Sign Language Interpreters and Transliterators is a very small profession at approximately 504 licensed individuals. While a low number of complaints can call into question the extent to which a profession needs to be regulated, interpreting accurately requires a level of skill, so the Board believes that regulation is necessary. Interpreters and transliterators work with clients in a variety of settings including educational institutions, medical facilities and in criminal proceedings. These all require accurate and skillful interpreting to protect the public.

What are the costs incurred by the public to comply with the rule?

While there are no known costs to the public, professional standards of practice are undoubtedly associated with costs to the licensed professional. The rule in this chapter is related to standard of care, so there would be a cost to the practitioner in taking the needed time to review prevailing standards of care. The Board is unable to assess a cost related to this specific requirement.

Licensees may also be required to pay a civil penalty fee to satisfy disciplinary action. Disciplinary fines are capped at \$1,000 per incidence, with a maximum of \$10,000, per public order.

What are the costs to the agency or any other agency to implement/enforce the rule?

Costs to the agency are the staff time needed to manage board activities, which includes managing complaints and conducting investigations when a licensee violates a practice standard. The time needed to manage this provision is generally in the form of responding to questions related to complaints and the act of investigating a case. An executive officer supports the full scope of work of this board at approximately 0.35 of an FTE. This additionally includes responding to questions from the public and licensees on items such as practice standards, continuing education, board meeting administration, etc. Due to the low number of complaints associated with this board, costs specific to managing complaints and investigations is very minimal. Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund established in SF 557.

Do the costs justify the benefits achieved? Please explain.

This is a small profession. There are approximately 504 licensed individuals who provide these services to lowans. There are very few complaints submitted to this Board. In 2022 there were two complaints submitted and no discipline issued. The Board believes that the costs justify the benefits achieved because the rules provide required guardrails for providing this important service to lowans. If this profession were not regulated it could mean that lower skilled individuals would provide this service to lowans, which would be of concern to the Board. Hearing aid dispensing is regulated in all 50 states.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Licensing is the highest form of regulation. Lower forms of regulation could potentially be viable. As of 2022, there were 22 states that do not license sign language interpreters, although some have other regulations. For example, Minnesota does not have licensure for sign language interpreters, but to work in the educational setting, they require interpreters to meet nearly identical standards to those licensed in Iowa. Interpreters are working with clients in settings that require a high level of accuracy and proficiency such as educational, medical and criminal. Inaccurate interpreting could cause significant harm to the public.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

The Board is leveraging this opportunity to remove duplication between statute and rule and eliminate the obsolete provisions of the rule, in accordance with EO10. Listed below are the rules from which most of the redundant and obsolete language was removed.

- 363.1 Removed duplicative/unnecessary definitions
- 362.2 Removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR REPEAL (list rule number[s]):

363.3 removed duplicative language found in 645 Chapter 13

363.4 removed duplicative language found in 645 Chapter 13

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 363

DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—363.1(154E) Definitions.

“Consumer” means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term “consumer” includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

645—363.2(154E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—363.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645.13:

363.2(1) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct includes, but is not limited to, the following:

a. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s or transliterator’s objectivity, competence, or effectiveness.

b. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

c. Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one’s professional duties.

d. Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

e. Failure to inform a consumer when federal or state laws require disclosure of confidential information.

f. Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

g. Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

363.2(2) Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

PHARMACY BOARD [657]

Notice of Intended Action

The Board of Pharmacy hereby proposes to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

This proposed rule making temporarily adds five substances (novel psychoactive substances (NPS) of the benzodiazepine class, also known as “designer benzodiazepines”) to schedule I of the controlled substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on _____, 2023. Comments should be directed to:

Sue Mears

Department of Inspections, Appeals and Licensing

400 S.W. 8th Street, Suite E

Des Moines, IA 50309

Sue.mears@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1) “b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM . Rescind subrule 10.39(2) and adopt the following **new** subrule in lieu thereof:

10.39(2) Amend Iowa Code section 124.204(9) by adding the following new paragraphs:

i. No change

j. 4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thienol[3,2-f][1,2,4]triazolo[4,3-alpha][1,4]diazepine, its salts, isomers, and salts of isomers (other name: etizolam)

k. 8-chloro-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-alpha][1,4]diazepine, its salts, isomers, and salts of isomers (other name: flualprazolam)

l. 6-(2-chlorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-alpha][1,4]diazepine, its salts, isomers, and salts of isomers (other name: clonazolam)

m. 8-bromo-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-alpha][1,4]diazepine, its salts, isomers, and salts of isomers (other name: flubromazolam)

n. 7-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one, its salts, isomers, and salts of isomers (other name: diclazepam)

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	13
IAC #:	661	Chapter / SubChapter / Rule(s):	61	Iowa Code Section Authorizing Rule:	101B.3(4)
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—61.1(101B) Certification program established. To explain the establishment of a fire safe cigarette certification program pursuant to Iowa Code chapter 101B.

661—61.2(101B) Definitions. To define terms specifically used in the rule.

661—61.3(101B) Test method, performance standard, test report. To explain test methods and reference specific requirements as outlined in Iowa Code chapter 101B.4.

661—61.4(101B) Alternate test method. To explain the process by which a manufacturer may propose, and the department approve an alternate test method and performance standard

661—61.5(101B) Acceptance of alternate test method approved by another state. To explain the process by which the department may accept test methods and performance standards approved by another state.

661—61.6(101B) Retention of reports of testing. To explain the retention requirements for reports of testing.

661—61.7(101B) Testing performed or sponsored by the department. To explain that testing performed or sponsored by the department must be conducted in accordance with the applicable law.

661—61.10(101B) Certification and fee. To explain the written certification requirements and applicable fees that must be submitted by manufacturers.

661—61.11(101B) Changes to the manufacture of a certified fire safe cigarette. To explain the retesting requirements for certified safe cigarettes that are subsequently changed by the manufacturer.

661—61.12(101B) Notification of certification. To explain the notification of certification that manufacturers, wholesalers and agents must provide

661—61.13(101B) Marking fire safe cigarette packaging. To explain the marking required to indicate compliance with the requirements of Iowa Code chapter 101B and these rules.

661—61.14 to 61.19 Reserved. N/A

661—61.20(101B) Applicability—preemption. To explain the circumstances under which the provisions of Iowa Code chapter 101B may cease to be applicable; to explain that political subdivisions are prohibited from passing ordinances, rules, or regulations in conflict with Iowa Code chapter 101B and these rules.

661—61.21(17A) Violations and penalties. To explain the civil penalties applicable for violations of Iowa Code chapter 101B and these rules, and the process for notification and appeal of those penalties.

Is the benefit being achieved? Please provide evidence.

661—61.1(101B) Certification program established. It is proposed that this rule be repealed. It is no longer necessary with the state realignment. Programs established and department contact information will be consolidated.

661—61.2(101B) Definitions. Yes, the benefit is being achieved.

661—61.3(101B) Test method, performance standard, test report. Yes, the benefit is being achieved.

661—61.4(101B) Alternate test method. Yes, the benefit is being achieved.

661—61.5(101B) Acceptance of alternate test method approved by another state. Yes, the benefit is being achieved.

661—61.6(101B) Retention of reports of testing. Yes, the benefit is being achieved.

661—61.7(101B) Testing performed or sponsored by the department. Yes, the benefit is being achieved.

661—61.8 and 61.9 Reserved. N/A.

661—61.10(101B) **Certification and fee.** Yes, the benefit is being achieved.
 661—61.11(101B) **Changes to the manufacture of a certified fire safe cigarette.** Yes, the benefit is being achieved.
 661—61.12(101B) **Notification of certification.** Yes, the benefit is being achieved.
 661—61.13(101B) **Marking fire safe cigarette packaging.** Yes, the benefit is being achieved.
 661—61.14 to 61.19 Reserved. N/A
 661—61.20(101B) **Applicability—preemption.** Yes, the benefit is being achieved.
 661—61.21(17A) **Violations and penalties.** Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

661—61.1(101B) **Certification program established.** N/A
 661—61.2(101B) **Definitions.** N/A
 661—61.3(101B) **Test method, performance standard, test report.** The manufacturer's cost to test their products.
 661—61.4(101B) **Alternate test method.** Only manufacturers interested in utilizing alternative test methods will incur costs associated with submitting a proposal for the alternative test method and performance standard.
 661—61.5(101B) **Acceptance of alternate test method approved by another state.** Only manufacturers interested in utilizing alternative test methods will incur costs associated with submitting a proposal for the alternative test method and performance standard.
 661—61.6(101B) **Retention of reports of testing.** The manufacturer may incur costs to retain its reports.
 661—61.7(101B) **Testing performed or sponsored by the department.** None
 661—61.8 and 61.9 Reserved. N/A
 661—61.10(101B) **Certification and fee.** The statutorily-prescribed certification fee.
 661—61.11(101B) **Changes to the manufacture of a certified fire safe cigarette.** There is a cost to the manufacturer if certification or recertification is necessary.
 661—61.12(101B) **Notification of certification.** Any costs to manufacturers, wholesalers and agents that may be involved with creating notifications.
 661—61.13(101B) **Marking fire safe cigarette packaging.** Manufacturers may incur additional costs related to packaging.
 661—61.14 to 61.19 Reserved. N/A
 661—61.20(101B) **Applicability—preemption.** None
 661—61.21(17A) **Violations and penalties.** Civil penalties are imposed on those who violate the law.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—61.1(101B) **Certification program established.** None
 661—61.2(101B) **Definitions.** N/A
 661—61.3(101B) **Test method, performance standard, test report.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code section 101B.4, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101B.4.
 661—61.4(101B) **Alternate test method.** Costs to the department include staff reviewing and processing alternate test method proposals.
 661—61.5(101B) **Acceptance of alternate test method approved by another state.** Costs to the department include staff reviewing and processing alternate test method proposals and the other state standard identified.
 661—61.6(101B) **Retention of reports of testing.** None
 661—61.7(101B) **Testing performed or sponsored by the department.** Costs are incurred only if department sponsored testing is necessary.
 661—61.8 and 61.9 Reserved. N/A
 661—61.10(101B) **Certification and fee.** Costs to the department include staff review of applications and costs related to processing payments and certifications.
 661—61.11(101B) **Changes to the manufacture of a certified fire safe cigarette.** Costs to the department associated with ensuring compliance with the requirements of this rule are incurred due to the requirements of Iowa Code sections 101B.5(6) and 101B.4.
 661—61.12(101B) **Notification of certification.** Costs to the department include staff ensuring compliance with the requirements of 101B.6, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101B.6.
 661—61.13(101B) **Marking fire safe cigarette packaging.** Costs to the department include staff ensuring compliance with the requirements of 101B.7, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101B.7.
 661—61.14 to 61.19 Reserved. N/A
 661—61.20(101B) **Applicability—preemption.** None
 661—61.21(17A) **Violations and penalties.** Costs to the department include staff ensuring compliance with the

requirements of Iowa Code chapter 101B and processing any violations in accordance with Iowa Code section 101B.8 and Iowa Code chapter 17A. The costs to the department from this rule do not exceed any costs incurred due to the identified Code chapters.

Do the costs justify the benefits achieved? Please explain.

661—61.1(101B) Certification program established. It is proposed that this be repealed.

661—61.2(101B) Definitions. Yes, the costs of the rule justify the benefits.

661—61.3(101B) Test method, performance standard, test report. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.4. The rule does not add costs to the department or public in excess of section 101B.4, and the benefits of the rule are being achieved.

661—61.4(101B) Alternate test method. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.4. The rule does not add costs to the department or public in excess of Section 101B.4, and the benefits of the rule are being achieved.

661—61.5(101B) Acceptance of alternate test method approved by another state. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.4. The rule does not add costs to the department or public in excess of Section 101B.4, and the benefits of the rule are being achieved.

661—61.6(101B) Retention of reports of testing. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.4. The rule does not add costs to the department or public in excess of Section 101B.4, and the benefits of the rule are being achieved.

661—61.7(101B) Testing performed or sponsored by the department. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.4. The rule does not add costs to the department or public in excess of Section 101B.4, and the benefits of the rule are being achieved.

661—61.8 and 61.9 Reserved. It is proposed that these reserved rules be repealed.

661—61.10(101B) Certification and fee. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.5. The rule does not add costs to the department or public in excess of Section 101B.5, and the benefits of the rule are being achieved.

661—61.11(101B) Changes to the manufacture of a certified fire safe cigarette. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.5. The rule does not add costs to the department or public in excess of Section 101B.5, and the benefits of the rule are being achieved.

661—61.12(101B) Notification of certification. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.6. The rule does not add costs to the department or public in excess of Section 101B.6, and the benefits of the rule are being achieved.

661—61.13(101B) Marking fire safe cigarette packaging. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.7. The rule does not add costs to the department or public in excess of Section 101B.7, and the benefits of the rule are being achieved.

661—61.14 to 61.19 Reserved. It is proposed that these reserved rules be repealed.

661—61.20(101B) Applicability—preemption. It is proposed that this be repealed.

661—61.21(17A) Violations and penalties. Yes, the costs of the rule justify the benefits. All costs are directly associated with Iowa Code section 101B.8. The rule does not add costs to the department or public in excess of Section 101B.8, and the benefits of the rule are being achieved.

Are there less restrictive alternatives to accomplish the benefit? X YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

There are no less restrictive alternatives for most of the rules in chapter 661—61 as the requirements already mirror the content of statutory requirements found in Iowa Code chapter 101B. However, rule 661-61.13(101B) “Marking fire safe cigarette packaging” currently sets forth a marking required for compliance with Iowa Code 101B.7. It has been identified that the specific marking could be suggested rather than required.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 61 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law. The department has

significantly edited this chapter to remove language duplicative of Code and combine rules for efficiency.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—61.1(101B) Certification program established.

Pertinent portions of the following rules are being incorporated into 61.3 “Test method, performance standard, test report”:

- 61.4(101B) Alternate test method;
- 61.5(101B) Acceptance of alternate test method approved by another state;
- 61.6(101B) Retention of reports of testing;
- 61.7(101B) Testing performed or sponsored by the department; and
- 61.11(101B) Changes to the manufacture of a certified fire safe cigarette.

661—61.8 and 61.9 Reserved.

661—61.14 to 61.19 Reserved.

661—61.20(101B) Applicability—preemption.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 61
FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

661—61.1(101B) Definitions. For purposes of these rules, the following definitions apply:

“*Certified fire safe cigarette*” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4
2. The unique cigarette brand style meets the performance standard specified in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.
3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.4(101B).
4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.5(101B).

“*Cigarette*” means a cigarette as defined in Iowa Code section 453A.1, but does not mean a tobacco product as defined in Iowa Code section 453A.1.

“*Department*” means the same as Iowa Code section 101B.2(3).

“*Fire safe cigarette*” means a cigarette certified pursuant to this chapter.

“*Manufacturer*” means the same as Iowa Code section 101B.2(4).

“*Sale*” means the same as Iowa Code 101B.2(8).

“*Unique cigarette brand style*” means a cigarette with a unique combination of the following:

1. Brand or trade name.
2. Style, such as light or ultra light.
3. Length.
4. Circumference.
5. Flavor, such as menthol or chocolate, if applicable.
6. Presence or absence of a filter.
7. Type of package, such as soft pack or box.

“*Wholesaler*” means the same as Iowa Code 101B.2(10).

661—61.2(101B) Certification and fee. A certification application and fee shall be submitted to the department online pursuant to Iowa Code section 101B.5. An application is incomplete unless all required information is submitted, including required attachments and fees. Applications will not be processed until complete.

661—61.3(101B) Test method, performance standard, test report. Unless otherwise excepted therein, each unique cigarette brand style submitted for certification under this chapter shall meet all of the criteria in Iowa Code section 101B.4.

61.3(1) Alternate test method. A manufacturer proposing an alternate test method and performance standard pursuant to this rule will submit such proposal to the department on a form provided by the department.

a. The department will approve or deny the proposed alternate test method and performance standard within 60 days of receipt of such proposal and will send notification of such approval or denial by certified mail, return receipt requested, to the address provided by the manufacturer.

b. The department may approve an alternate test method and performance standard if it is determined to be equivalent to the test method and performance standard prescribed in Iowa Code section 101B.4. If an alternate test method and performance standard is approved pursuant to this rule, the manufacturer may employ the alternate test method and performance standard to certify the cigarette in accordance with Iowa Code section 101B.4.

61.3(2) Acceptance of alternate test method approved by another state. A manufacturer proposing an alternate test method and performance standard approved by another state will use the procedure specified in subrule (2) and provide documentation verifying that the alternate test method and performance standard have been approved by another state as provided in Iowa Code section 101B.4(9).

61.3(3) Retention of reports of testing. A manufacturer shall maintain copies of all test reports pursuant to Iowa Code section 101B.4(10).

61.3(4) Testing performed or sponsored by the department. Testing performed or sponsored by the department will be conducted in accordance with Iowa Code section 101B.4.

61.3(5) Changes to the manufacture of a certified fire safe cigarette. If a manufacturer with any cigarette certified under this chapter makes any changes to the cigarette thereafter, retesting of the cigarette may be required in accordance with Iowa Code section 101B.5(6).

661—61.4(101B) Notification of certification. A manufacturer or wholesaler shall provide copies of certifications pursuant to Iowa Code section 101B.6.

661—61.5(101B) Marking fire safe cigarette packaging. Cigarettes that have been certified in accordance with Iowa Code section 101B.5 shall be marked as provided in Iowa Code section 101B.7. The recommended marking is the letters “FSC” displayed in accordance with any of the methods described in Iowa Code section 101B.7.

661—61.6(17A) Violations and penalties. A person who violates any provision of Iowa Code chapter 101B or of this chapter is subject to a civil penalty of an amount no greater than specified by Iowa Code section 101B.8. Notice of a civil penalty will be provided by mail or by personal service. A person subject to a civil penalty may appeal the imposition of the penalty by requesting a contested case hearing, in writing, within 20 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing for contested cases.

These rules are intended to implement Iowa Code chapter 101B.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	1947
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	65

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	12
IAC #:	661	Chapter/ SubChapter/ Rule(s):	235	Iowa Code Section Authorizing Rule:	101A.5, 272C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

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What is the intended benefit of the rule?

661—235.1(101A) Licensing program established. To explain the establishment of a commercial explosive licensing program pursuant to Iowa Code chapter 101A.

661—235.2(101A) Definitions. To define terms used in the rule.

661—235.3(101A) Licenses required. To outline the entities and individuals required to obtain a license pursuant to this chapter.

661—235.4(101A,272C) License application process. To explain the application process for licensure pursuant to this chapter. **661—235.5(101A) Issuance of commercial explosive contractor license.** To explain conditions that must be satisfied to obtain a commercial explosive contractor license.

661—235.6(101A) Issuance of a commercial explosive blaster license. To explain conditions that must be satisfied to obtain a commercial explosive blaster license.

661—235.7(272C) Licensure of persons licensed in other jurisdictions. To explain the process and requirements for licensure of persons licensed in other jurisdictions, pursuant to Iowa code section 272C.12.

661—235.8(101A) Inventory and records. To explain the records that must be maintained by a licensed commercial explosive business.

661—235.9(100C) Complaints. To explain the procedure for submitting complaints

661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals. To explain the reasons for which a license may be denied, suspended, or revoked, and the process by which the decision may be appealed.

661—235.11(101A,252J) Child support collection procedures. To explain the process for licensure actions based on nonpayment of child support pursuant to Iowa Code chapter 252J.

661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. To explain the process for licensure actions based on nonpayment of debts pursuant to Iowa Code chapter 272D.

Is the benefit being achieved? Please provide evidence.

661—235.1(101A) Licensing program established. It is proposed that this rule be repealed. This rule is no longer necessary with the state realignment. Programs established and department contact information will be consolidated in one subrule.

661—235.2(101A) Definitions. Yes, the benefit is being achieved.

661—235.3(101A) Licenses required. Yes, the benefit is being achieved.

661—235.4(101A,272C) License application process. Yes, the benefit is being achieved.

661—235.5(101A) Issuance of commercial explosive contractor license. Yes, the benefit is being achieved.

661—235.6(101A) Issuance of a commercial explosive blaster license. Yes, the benefit is being achieved.

661—235.7(272C) Licensure of persons licensed in other jurisdictions. Yes, the benefit is being achieved.

661—235.8(101A) Inventory and records. Yes, the benefit is being achieved.

661—235.9(100C) Complaints. Yes, the benefit is being achieved.

661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

Yes, the benefit is being achieved.

661—235.11(101A,252J) Child support collection procedures. It is proposed that this rule be repealed. The rule can be combined into one section for the entire department as part of the state realignment.

661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. It is proposed that this rule be repealed. The rule can be combined into one section for the entire department as part of the state realignment.

What are the costs incurred by the public to comply with the rule?

661—235.1(101A) Licensing program established. N/A

661—235.2(101A) Definitions. N/A

661—235.3(101A) Licenses required. The cost of the license.

661—235.4(101A,272C) License application process. The cost of the license.

661—235.5(101A) Issuance of commercial explosive contractor license. None

661—235.6(101A) Issuance of a commercial explosive blaster license. None

661—235.7(272C) Licensure of persons licensed in other jurisdictions. None

661—235.8(101A) Inventory and records. Any costs related to records retention.

661—235.9(100C) Complaints. None

661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals. Any potential court costs for appeals or civil penalties imposed on those who violate the law.

661—235.11(101A,252J) Child support collection procedures. Applicants or licensees must pay fees for license renewal or reinstatement before the issuance, renewal, or reinstatement of a license that was denied, suspended or revoked pursuant to Iowa Code chapter 252J.

661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government.

Applicants or licensees must pay fees for license renewal or reinstatement before the issuance, renewal, or reinstatement of a license that was denied, suspended or revoked pursuant to Iowa Code chapter 272D.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—235.1(101A) Licensing program established. N/A

661—235.2(101A) Definitions. N/A

661—235.3(101A) Licenses required. None

661—235.4(101A,272C) License application process. Costs to the department include staff ensuring compliance with the requirements of 101A.2, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101A.2.

661—235.5(101A) Issuance of commercial explosive contractor license. Costs to the department include staff ensuring compliance with the requirements of 101A.2, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101A.2.

661—235.6(101A) Issuance of a commercial explosive blaster license. Costs to the department include staff ensuring compliance with the requirements of 101A.2, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 101A.2.

661—235.7(272C) Licensure of persons licensed in other jurisdictions. Costs to the department include staff ensuring compliance with the licensure criteria. The costs to the department from this rule do not exceed any costs incurred due to 101A.2.

661—235.8(101A) Inventory and records. None

661—235.9(100C) Complaints. Costs to the department include costs for staff investigation of complaints.

661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals. Costs to the department include staff ensuring compliance with the requirements of Iowa Code chapter 101A and processing any violations in accordance with Iowa Code section 101A.14 and Iowa Code chapter 17A.

661—235.11(101A,252J) Child support collection procedures. Costs to the department include costs for staff to process and serve notice to applicants or licensees pursuant to Iowa Code chapter 252J.

661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. Costs to the department include costs for staff to process and serve notice to applicants or licensees pursuant to Iowa Code chapter 272D.

Do the costs justify the benefits achieved? Please explain.

661—235.1(101A) Licensing program established. It is proposed that this be repealed.

661—235.2(101A) Definitions. Yes, the costs of the rule justify the benefit.

661—235.3(101A) Licenses required. Yes, the costs of the rule justify the benefit.

661—235.4(101A,272C) License application process. Yes, the costs of the rule justify the benefit.

661—235.5(101A) Issuance of commercial explosive contractor license. Yes, the costs of the rule justify the benefit.

661—235.6(101A) Issuance of a commercial explosive blaster license. Yes, the costs of the rule justify the benefit.
661—235.7(272C) Licensure of persons licensed in other jurisdictions. Yes, the costs of the rule justify the benefits.
661—235.8(101A) Inventory and records. Yes, the costs of the rule justify the benefit.
661—235.9(100C) Complaints. Yes, the costs of the rule justify the benefit.
661—235.10(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals. Yes, the costs of the rule justify the benefit.
661—235.11(101A,252J) Child support collection procedures. It is proposed that this rule be repealed.
661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government. It is proposed this be repealed.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

There are no less restrictive alternatives the rules in chapter 661—235 as the requirements already mirror the content of statutory requirements found in Iowa Code chapter 101A.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 235 has a component that falls under one or more of the above referenced categories and was able to be revised to remove language that is unnecessary or duplicative of other state or federal law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—235.1(101A) Licensing program established.
661—235.11(101A,252J) Child support collection procedures.
661—235.12(101A,272D) Suspension or revocation for nonpayment of debts owed state or local government

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 235
LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

661—235.1(101A) Definitions. Definitions set forth in Iowa Code section 101A.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

“*Actual possession*” means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

“*Applicant*” means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of “employee possessor” or “responsible person” as defined in this chapter.

“*Commercial explosive blaster*” or “*blaster*” means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

“*Commercial explosive contractor*” or “*contractor*” means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

“*Constructive possession*” means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

“*Employee possessor*” means an individual who has actual or constructive possession of explosive materials during the course of the individual’s employment.

“*Offense directly relates*” refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.

2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*Responsible person*” means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and

explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

661—235.2(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current commercial explosive blaster license issued pursuant to this chapter. A commercial explosive blaster license is not be required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes “fireworks” from the definition of “explosive.” Consequently, working with fireworks does not necessitate a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks necessitate a commercial explosive license.

661—235.3(101A,272C) License application process.

235.3(1) Application for commercial explosive contractor or commercial explosive blaster license. Applications for a commercial explosive contractor license or a commercial explosive blaster license are available on the department’s website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

235.3(2) Submission of application and required information. A completed application for a license shall be submitted to the department at the address specified on the department’s website. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

235.3(3) License fee. Each license application shall be accompanied by a license fee as set forth in Iowa Code section 101A.2(2). The department will waive any fee charged to an applicant for a license if the applicant’s household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

235.3(4) License duration. Licensure will normally be for three years and expire on December 31 of the third year after it is issued, except that a license issued in December of any year expires on December 31 after two years have passed from the date on which the license was issued.

235.3(5) Criminal history. An applicant is subject to a national criminal history check pursuant to Iowa Code section 101A.2(3).

235.3(6) Veterans and military service members. Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster should apply for licensure in accordance with 481—Chapter 7.

661—235.4(101A) Issuance of commercial explosive contractor license. A commercial explosive contractor license will be issued if all of the following conditions have been satisfied:

235.4(1) All items required on the application have been completed, and any items the department deems necessary to verify have been appropriately verified.

235.4(2) No applicant for whom commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective contractor licensee may:

- a. Have been convicted of any offense involving explosives or firearms;
- b. Have been previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c. Be an unlawful user of or be addicted to controlled substances;
- d. Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person’s capacity to function normally and safely, both toward themselves and others.

235.4(3) The applicant has at least one responsible person or employee licensed as a commercial explosive blaster.

661—235.5(101A) Issuance of a commercial explosive blaster license. A commercial explosive blaster license will be issued if all of the following conditions have been satisfied:

235.5(1) The applicant is an employee of a licensed commercial explosive contractor.

a. If, after a commercial explosive blaster license is issued, such employment ceases, the employing contractor and the commercial explosive blaster shall each notify the department within three business days of the final day of employment that the employment has ceased, and the commercial explosive blaster license shall be suspended until the commercial explosive blaster is again employed with a licensed commercial explosive contractor.

b. Upon reemployment, the employer shall notify the department that the commercial explosive blaster is again employed with a licensed commercial explosive contractor, and the department will reinstate the commercial explosive blaster license as soon as practical, provided that the commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the department finds that a commercial explosive blaster is disqualified from holding a license, the department shall revoke the license.

235.5(2) All items required on the application have been completed and any items the department deems necessary to verify have been verified and found to be true.

235.5(3) The applicant is not or has not been:

a. Convicted of any offense involving explosives or firearms;

b. Previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. An unlawful user of or addicted to controlled substances;

d. Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

e. A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely toward themselves or others.

235.5(4) The applicant has satisfactorily completed training approved by the department for the handling and use of explosives as described on the department's website. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The department may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive contractor licensee.

EXCEPTION: The department may issue a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the department finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

235.5(5) An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

235.5(6) The applicant is 21 years of age or older.

661—235.6(272C) Licensure of persons licensed in other jurisdictions.

235.6(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

235.6(2) Notwithstanding any other provision of law, a commercial explosive contractor license or commercial blaster license will be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a commercial explosive contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the department shall determine if the cause for the action was corrected and the matter resolved. If the department determines that the matter has not been resolved by the jurisdiction imposing discipline, the department shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the department shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the commercial explosive contractor license or commercial blaster license applied for in this state.

235.6(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the department marshal.

235.6(4) This rule does not apply to any of the following:

a. The ability of the department to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the department requires an application to take and pass an examination specific to the laws of this state, the department will issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

235.6(5) Except as provided in subrule 235.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosive contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the department in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the department.

235.6(6) A person applying for a license in this state under the requirements of this subrule shall submit the request in writing to the department providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

661—235.7(101A) Inventory and records. Each licensed commercial explosive business shall maintain records as referenced in the National Fire Protection Association (NFA) chapter 495 "Explosive Material Code" as adopted by reference in rule 661—231.1(101A).

661—235.8(101A) Complaints. Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosive contractor or commercial blaster without licensure may be filed with the department.

Complaints should be as specific as possible and clearly identify the contractor or blaster against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

661—235.9(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

235.9(1) The department may refuse to issue a contractor or blaster license sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

b. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

c. Finding that the applicant or licensee falsified information in the current or any previous license application.

d. Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.

f. Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of health and human services, pursuant to the procedures set forth in Iowa Code chapter 252J.

g. Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue, pursuant to Iowa Code chapter 272D.

h. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the applicant, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

i. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the applicant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

j. Willful or repeated violations of the provisions of this chapter.

k. Disqualifications pursuant to Iowa Code section 272C.15.

235.9(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action by requesting a contested case hearing, in writing, within 20 days of the department's determination. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue are subject to the procedures set forth in 481—Chapter 8.

235.9(3) The department will notify the employing commercial explosive contractor licensee of the denial, suspension, or revocation of a commercial explosive blaster license.

These rules are intended to implement Iowa Code chapters 101A and 272C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	2,583
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	73

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Inspections, Appeals, and Licensing	Date:	August 31,2023	Total Rule Count:	18
IAC #:	661	Chapter / SubChapter / Rule(s):	265	Iowa Code Section Authorizing Rule:	100.19, 100.19A
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—265.1(100) Sale of consumer fireworks—safety standards. To explain what safety standards, govern the sale of consumer fireworks.

661—265.2 to 265.9 Reserved. N/A

661—265.10(100) Sales allowed. To explain the circumstances under which consumer fireworks may be sold in the state.

661—265.11 to 265.19 Reserved. N/A

661—265.20(100) Definitions. To define terms used in the rules pertaining to consumer fireworks sales.

661—265.21(100) License fee schedule. To outline the required fees for licensing.

661—265.22(100) Fees collected. To explain other fees associated with licensure.

661—265.23(100) Consumer fireworks retail sales license. To explain the application period and requirements.

661—265.24(100) Submittal of application and required information. To explain what documentation is required for application.

661—265.25(100) Fireworks site plan review and approval. To explain the process and requirements for site plan approval.

661—265.26(100) Plan review and inspection—guidelines. To explain the site inspection process.

661—265.27(100) Issuance and display of license. To explain the requirements for issuance and display of the license.

661—265.28(100) Unauthorized use of license. To explain limits on the use of the license.

661—265.30(100) Definitions. To define the terms used in the rules pertaining to consumer fireworks wholesalers.

661—265.31(100) Annual registration. To explain the requirements for wholesaler registration.

661—265.32(100) Safety regulations—storage and transfer. To explain storage and transfer requirements for wholesalers.

661—265.33(100) Insurance—required. To explain liability insurance requirements for wholesalers.

661—265.34 to 265.39 Reserved. N/A

661—265.40(100) Revocation of license. To explain behaviors that will result in license revocation.

661—265.41(100) Petition for judicial review. Repealed/none

661—265.42(100) License revocation effective date. Repealed/none

661—265.43(100) Revocation—denial of new license. Repealed/none

661—265.44 to 265.49 Reserved. N/A

661—265.50(100) Consumer fireworks fee fund. To explain the consumer fireworks fee fund and the uses of funds collected.

661—265.51(100) Local fire protection and emergency medical service providers grant program. Establishes and explains the local fire protection and emergency medical service providers grant program.

Is the benefit being achieved? Please provide evidence.

661—265.1(100) Sale of consumer fireworks—safety standards. Yes, the benefit is being achieved.

661—265.2 to 265.9 Reserved. N/A

661—265.10(100) Sales allowed. Yes, the benefit is being achieved.

661—265.11 to 265.19 Reserved. N/A

661—265.20(100) Definitions. Yes, the benefit is being achieved.

661—265.21(100) License fee schedule. Yes, the benefit is being achieved.

661—265.22(100) Fees collected. Yes, the benefit is being achieved.

661—265.23(100) **Consumer fireworks retail sales license.** Yes, the benefit is being achieved.
661—265.24(100) **Submittal of application and required information.** Yes, the benefit is being achieved.
661—265.25(100) **Fireworks site plan review and approval.** Yes, the benefit is being achieved.
661—265.26(100) **Plan review and inspection—guidelines.** Yes, the benefit is being achieved.
661—265.27(100) **Issuance and display of license.** Yes, the benefit is being achieved.
661—265.28(100) **Unauthorized use of license.** Yes, the benefit is being achieved.
661—265.30(100) **Definitions.** Yes, the benefit is being achieved.
661—265.31(100) **Annual registration.** Yes, the benefit is being achieved.
661—265.32(100) **Safety regulations—storage and transfer.** Yes, the benefit is being achieved.
661—265.33(100) **Insurance—required.** Yes, the benefit is being achieved.
661—265.34 to 265.39 **Reserved.** N/A
661—265.40(100) **Revocation of license.** Yes, the benefit is being achieved.
661—265.41(100) **Petition for judicial review.** N/A (previously rescinded)
661—265.42(100) **License revocation effective date.** N/A (previously rescinded)
661—265.43(100) **Revocation—denial of new license.** N/A (previously rescinded)
661—265.44 to 265.49 **Reserved.** N/A
661—265.50(100) **Consumer fireworks fee fund.** Yes, the benefit is being achieved.
661—265.51(100) **Local fire protection and emergency medical service providers grant program.** Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

661—265.1(100) **Sale of consumer fireworks—safety standards.** The public may incur costs if they choose to purchase a copy of the standard instead of accessing the text online for free.
661—265.2 to 265.9 **Reserved.** None
661—265.10(100) **Sales allowed.** None
661—265.11 to 265.19 **Reserved.** None
661—265.20(100) **Definitions.** None
661—265.21(100) **License fee schedule.** The cost of the license.
661—265.22(100) **Fees collected.** Applicants for a consumer fireworks retail sales license incur a nonrefundable administrative fee. Fees may be incurred for changes to the license after issuance.
661—265.23(100) **Consumer fireworks retail sales license.** Any costs associated with submission of an application and required accompanying documentation.
661—265.24(100) **Submittal of application and required information.** Any costs associated with submission of an application and the required accompanying documentation; such costs include site plans and liability insurance.
661—265.25(100) **Fireworks site plan review and approval.** Costs may be incurred if applicants for licensure hire a professional to prepare site plans.
661—265.26(100) **Plan review and inspection—guidelines.** Any costs to comply with safety requirements.
661—265.27(100) **Issuance and display of license.** None
661—265.28(100) **Unauthorized use of license.** Those who do not meet the requirements of the rule may be assessed civil penalties.
661—265.30(100) **Definitions.** None
661—265.31(100) **Annual registration.** The cost of the registration.
661—265.32(100) **Safety regulations—storage and transfer.** Any costs to comply with safety requirements.
661—265.33(100) **Insurance—required.** The cost of the liability insurance coverage.
661—265.34 to 265.39 **Reserved.** None
661—265.40(100) **Revocation of license.** None
661—265.41(100) **Petition for judicial review.** N/A
661—265.42(100) **License revocation effective date.** N/A
661—265.43(100) **Revocation—denial of new license.** N/A
661—265.44 to 265.49 **Reserved.** N/A
661—265.50(100) **Consumer fireworks fee fund.** None
661—265.51(100) **Local fire protection and emergency medical service providers grant program.** None

What are the costs to the agency or any other agency to implement/enforce the rule?

661—265.1(100) **Sale of consumer fireworks—safety standards.** The department may incur costs to provide copies of the standards to staff.
661—265.2 to 265.9 **Reserved.** None
661—265.10(100) **Sales allowed.** None

661—265.11 to 265.19 **Reserved.** None

661—265.20(100) **Definitions.** None

661—265.21(100) **License fee schedule.** None

661—265.22(100) **Fees collected.** None

661—265.23(100) **Consumer fireworks retail sales license.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code sections 100.19 and 100.19A, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 100.19 and 100.19A.

661—265.24(100) **Submittal of application and required information.** None

661—265.25(100) **Fireworks site plan review and approval.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code sections 100.19 and 100.19A, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 100.19 and 100.19A

661—265.26(100) **Plan review and inspection—guidelines.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code sections 100.19 and 100.19A, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 100.19 and 100.19A

661—265.27(100) **Issuance and display of license.** None

661—265.28(100) **Unauthorized use of license.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code sections 100.19 and 100.19A, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 100.19 and 100.19A

661—265.30(100) **Definitions.** None

661—265.31(100) **Annual registration.** Costs to the department include staff ensuring compliance with the requirements of Iowa Code sections 100.19 and 100.19A, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to 100.19 and 100.19A

661—265.32(100) **Safety regulations—storage and transfer.** The cost of staff to administer the program.

661—265.33(100) **Insurance—required.** None

661—265.34 to 265.39 **Reserved.** None

661—265.40(100) **Revocation of license.** The cost of staff to administer the program if revocation is necessary.

661—265.41(100) **Petition for judicial review.** N/A

661—265.42(100) **License revocation effective date.** N/A

661—265.43(100) **Revocation—denial of new license.** N/A

661—265.44 to 265.49 **Reserved.** N/A

661—265.50(100) **Consumer fireworks fee fund.** The cost of staff to administer the program.

661—265.51(100) **Local fire protection and emergency medical service providers grant program.** The cost of staff to administer the grant program, which is established by Iowa Code section 100.19.

Do the costs justify the benefits achieved? Please explain.

661—265.1(100) **Sale of consumer fireworks—safety standards.** Yes, any costs justify the benefits.

661—265.2 to 265.9 **Reserved.** N/A

661—265.10(100) **Sales allowed.** N/A

661—265.11 to 265.19 **Reserved.** N/A

661—265.20(100) **Definitions.** N/A

661—265.21(100) **License fee schedule.** Yes, the costs justify the benefits.

661—265.22(100) **Fees collected.** Yes, the costs justify the benefits.

661—265.23(100) **Consumer fireworks retail sales license.** Yes, the costs justify the benefits.

661—265.24(100) **Submittal of application and required information.** Yes, the costs justify the benefits.

661—265.25(100) **Fireworks site plan review and approval.** Yes, the costs justify the benefits.

661—265.26(100) **Plan review and inspection—guidelines.** Yes, the costs justify the benefits.

661—265.27(100) **Issuance and display of license.** N/A

661—265.28(100) **Unauthorized use of license.** Yes, the costs justify the benefits.

661—265.30(100) **Definitions.** N/A

661—265.31(100) **Annual registration.** Yes, the costs justify the benefits.

661—265.32(100) **Safety regulations—storage and transfer.** Yes, the costs justify the benefits.

661—265.33(100) **Insurance—required.** Yes, the costs justify the benefits.

661—265.34 to 265.39 **Reserved.** N/A

661—265.40(100) **Revocation of license.** Yes, the costs justify the benefits.

661—265.41(100) **Petition for judicial review.** N/A

661—265.42(100) **License revocation effective date.** N/A

661—265.43(100) **Revocation—denial of new license.** N/A

661—265.44 to 265.49 Reserved. N/A

661—265.50(100) Consumer fireworks fee fund. N/A

661—265.51(100) Local fire protection and emergency medical service providers grant program. Yes, the costs justify the benefits.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

There are no less restrictive alternatives for the rules in chapter 661—265 as the requirements substantially mirror the content of statutory requirements found in Iowa Code sections 100.19 and 100.19A.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 265 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law. The department significantly edited this chapter and combined rules for efficiency.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—265.2 to 265.9 Reserved.

661—265.11 to 265.19 Reserved.

661—265.22(100) Fees collected.

661—265.24(100) Submittal of application and required information.

661—265.26(100) Plan review and inspection—guidelines.

661—265.27(100) Issuance and display of license.

661—265.29(100) Reserved.

661—265.30(100) Definitions.

661—265.34 to 265.39 Reserved.

661—265.41(100) Petition for judicial review. Rule previously rescinded.

661—265.42(100) License revocation effective date. Rule previously rescinded.

661—265.43(100) Revocation—denial of new license. Rule previously rescinded.

661—265.44 to 265.49 Reserved.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 265

CONSUMER FIREWORKS RETAIL SELLER LICENSING AND WHOLESALER REGISTRATION

661—265.1(100) Definitions. The following definitions apply:

“*APA 87-1*” means the same as Iowa Code 10A.519(1)(a).

“*Commercial fireworks*” means large firework devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as set forth in 27 CFR 555, 49 CFR 172, and APA Standard 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

“*Community group*” means the same as Iowa Code 10A.519(1)(b).

“*Consumer fireworks*” means the same as Iowa Code 10A.520(1)(a).

“*Display fireworks*” means the same as Iowa Code section 727.2(1)(b).

“*First-class consumer fireworks*” means the same as Iowa Code 10A.519(1)(c).

“*NFPA 1124*” means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“*Retailer*” means the same as Iowa Code section 10A.519(1)(d).

“*Second-class consumer fireworks*” means the same as Iowa Code 10A.519(1)(e).

“*Serious violation*” means any of the following activities occurring at a licensed retail location selling consumer fireworks:

1. Commission of a criminal offense, punishable by one year or more incarceration.
2. Selling consumer fireworks to a minor.
3. Selling commercial fireworks.

“*Wholesaler*” means the same as Iowa Code section 10A.520(1)(b).

661—265.2(100) Sale of consumer fireworks—safety standards. Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as “APA 87-1” and “NFPA 1124,” respectively).

661—265.3(100) Sales allowed. A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

265.3(1) Prohibited sale or transfer to persons under 18 years of age.

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

265.3(2) Exceptions for persons under 18 years of age.

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than 18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

265.3(3) Dates of sale. A retailer or community group may sell consumer fireworks in accordance with Iowa Code section 10A.519(4)(c).

661—265.4(100) License fees—consumer fireworks seller licenses.

265.4(1) Fee schedule. The fee schedule for consumer fireworks seller licenses is as provided in Iowa Code 10A.519(3). License fees shall be paid before issuance of a license

265.4(2) Administrative license fee. A nonrefundable administrative fee of \$100 is required with every application for a consumer fireworks retail sales license. The \$100 fee will be applied to the license fee if the license is issued.

265.4(3) Changing license class or amount. If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

265.4(4) No refund after issuance. Payment is final when the license is issued, and the fee will not be refunded.

661—265.5(100) Application and issuance of license.

265.5(1) Application form and instructions. The application for a license for retail sales of consumer fireworks shall be made to the department as described on the department’s website. A license is required for each location where the retail sales of consumer fireworks are conducted.

265.5(2) Application requirements. Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions.

265.5(3) Proof of insurance. Applicants must provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

265.5(4) Issuance and display of license. If all of the requirements are met and the correct license fee is paid, the department will issue the license. The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

661—265.6(100) Fireworks site plan review, approval, and inspection.

265.6(1) Plan approval. The retailer or community group shall submit to the department the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the sale and storage of fireworks. Requirements and exceptions for site plan submittal and approval are outlined on the department's website.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

265.6(2) Inspections.

a. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection at any time while engaged in the retail sale of consumer fireworks.

b. Prior to the sale of consumer fireworks, each retail location shall satisfy one of the following requirements:

(1) A site inspection of the retail location by the department or the department's designee.

(2) Attestation at the time of the application by the person submitting the application that the retail location will comply with NFPA 1124 and these rules.

c. If a retail location license is revoked, the location shall satisfy be inspected in accordance with subparagraph (2) "b"(1) prior to engaging in the sale of consumer fireworks the following year.

661—265.7(100) Unauthorized use of license. Only the retailer or the community group which is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

265.7(1) If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

265.7(2) The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

265.7(3) No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

265.8(100) Revocation of license. If the department or department's designee determines during a physical site inspection that a serious violation has occurred, the license for that retail location may be immediately revoked. Vendors will be given the opportunity to remedy violations that are not deemed serious violations.

661—265.9(100) Consumer fireworks wholesalers—registration—safety—insurance.

265.9(1) Annual registration. Each wholesaler shall register with the department annually by completing and submitting the annual registration form and paying the fee as required by Iowa Code 10A.520(3).

265.9(2) Safety regulations—storage and transfer. Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

265.9(3) Insurance required. While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

661—265.10(100) Consumer fireworks fee fund. All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks will be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 10A.519. The department will use the fees deposited into this fund to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

661—265.11(100) Local fire protection and emergency medical service providers grant program. The local fire protection

and emergency medical service providers grant program is established by Iowa Code section 10A.519(7). The grant program is funded with only those moneys from the consumer fireworks fee fund which are not needed by the department to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

265.11(1) Definitions. The following definitions apply.

“Emergency medical services” means the same as Iowa Code section 147A.1(5).

“Fire protection service” means volunteer or paid fire departments.

265.11(2) Authorized applicants. Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

265.11(3) Authorized purposes of grant funds. The grant funds in the local fire protection and emergency medical service providers grant program may be used for the following in order of priority:

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.
- c. To purchase necessary enforcement, protection, or emergency response equipment.

265.11(4) Application. An application for grant funds should be made to the department. The application form may be found on the department’s website. Applications must be received on or before June 30 of each year. The application will include all of the following:

- a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.
- b. The specifics of the proposed use of the grant funds.
 - (1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.
 - (2) If the application is for safety education programming, the application should include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.
- c. The amount of grant funds requested.

265.11(5) Approval of application. The director of the department will review the application and determine whether to make the award of grant funds. The director of the department has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

- a. The amount of grant funds available.
- b. The number of applicants for grant funds.
- c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.
- d. Whether the applicant has previously been approved for grant funds from this program.
- e. The applicant’s use of any previous grant funds received from the program.

265.11(6) Award of tangible property. Should the department determine that the purpose of the grant program is better served by awarding tangible property, such as equipment, rather than funds, the department has the authority to award tangible property purchased with grant funds rather than disperse grant funds to the applicants.

265.11(7) Report required. All grant recipients shall file a report with the department that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The department may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

These rules are intended to implement Iowa Code sections 10A.519 and 10A.520.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	7
Proposed word count reduction after repeal and/or re-promulgation	1480
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	34

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	9
IAC #:	661	Chapter/ SubChapter/ Rule(s):	275	Iowa Code Section Authorizing Rule:	100C.7
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—275.1(100C) Establishment of program. To explain the establishment of a fire extinguishing contractor licensing program pursuant to Iowa Code chapter 100C.

661—275.2(100C) Definitions. To define terms used in the rule.

661—275.3(100C) Responsible managing employee. To explain the requirements for an individual to qualify and be designated as a responsible managing employee by a contractor seeking to obtain a license pursuant to this chapter.

661—275.4(100C) License requirements. To explain the requirements for licensure as a fire protection system contractor.

661—275.5(272C) Licensure of persons licensed in other jurisdictions. To explain the requirements and process for licensure of persons licensed in other jurisdictions, pursuant to Iowa Code section 272C.12.

661—275.6(100C) Application and fees. To explain the application process for licensure pursuant to this chapter.

661—275.7(100C) Complaints. To explain the procedure for submitting complaints.

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. To explain the reasons for which a license may be denied, suspended, or revoked and the process by which the decision may be appealed.

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. To explain the process and requirements for licensure of military service members, veterans, and military spouses.

Is the benefit being achieved? Please provide evidence.

661—275.1(100C) Establishment of program. Yes, the benefit is being achieved.

661—275.2(100C) Definitions. Yes, the benefit is being achieved.

661—275.3(100C) Responsible managing employee. Yes, the benefit is being achieved.

661—275.4(100C) License requirements. Yes, the benefit is being achieved.

661—275.5(272C) Licensure of persons licensed in other jurisdictions. Yes, the benefit is being achieved.

661—275.6(100C) Application and fees. Yes, the benefit is being achieved.

661—275.7(100C) Complaints. Yes, the benefit is being achieved.

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Yes, the benefit is being achieved.

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. Yes, however it is proposed that this rule be repealed and simple reference made to an applicable DIAL chapter.

What are the costs incurred by the public to comply with the rule?

661—275.1(100C) Establishment of program. N/A

661—275.2(100C) Definitions. N/A

661—275.3(100C) Responsible managing employee. Costs to ensure a responsible managing employee has the required training.

661—275.4(100C) License requirements. The cost to the applicant to obtain their qualifying certification necessary before applying for licensure.

661—275.5(272C) Licensure of persons licensed in other jurisdictions. Minimal administrative costs associated with demonstrating other licensure.

661—275.6(100C) Application and fees. The cost of the license fee.

661—275.7(100C) Complaints. N/A

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Any potential civil penalty upon violation of the law or costs associated with pursuing a contested case appeal, if requested.

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. N/A

What are the costs to the agency or any other agency to implement/enforce the rule?

661—275.1(100C) Establishment of program. Any costs associated with this rule are attributable to the responsibilities assigned by Iowa Code.

661—275.2(100C) Definitions. N/A

661—275.3(100C) Responsible managing employee. Costs to the department include staff ensuring compliance with requirements of Iowa Code chapter 100C, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to chapter 100C.

661—275.4(100C) License requirements. Costs to the department include staff ensuring compliance with requirements of Iowa Code chapter 100C, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to chapter 100C.

661—275.5(272C) Licensure of persons licensed in other jurisdictions. None

661—275.6(100C) Application and fees. Costs to the department include staff ensuring compliance with requirements of Iowa Code chapter 100C, which are currently incorporated into this rule. The costs to the department from this rule do not exceed any costs incurred due to chapter 100C.

661—275.7(100C) Complaints. Costs to the department include costs for staff investigation of complaints.

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may incur court costs or legal fees associated with appeals by licensees.

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. None

Do the costs justify the benefits achieved? Please explain.

661—275.1(100C) Establishment of program. Yes, the costs of the rule justify the benefit.

661—275.2(100C) Definitions. N/A

661—275.3(100C) Responsible managing employee. Yes, the costs of the rule justify the benefit.

661—275.4(100C) License requirements. Yes, the costs of the rule justify the benefit.

661—275.5(272C) Licensure of persons licensed in other jurisdictions. Yes, the costs of the rule justify the benefit.

661—275.6(100C) Application and fees. Yes, the costs of the rule justify the benefit.

661—275.7(100C) Complaints. Yes, the costs of the rule justify the benefit.

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Yes, the costs of the rule justify the benefit.

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. N/A.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No less restrictive alternatives exist because the requirements mirror content of statutory requirements in Iowa Code 100C.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 275 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—275.9(272C) Veterans, military service members, and certain survivor beneficiaries. This rule is being repealed, with pertinent references to a DIAL chapter on the topic included in other appropriate rules.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 275
LICENSING OF FIRE PROTECTION SYSTEM CONTRACTORS

661—275.1(100C) Establishment of program. The fire protection system contractor license is established pursuant to Iowa Code chapter 100C.

275.1(1) Licensure required. No person shall act as a fire extinguishing system contractor without being currently licensed as a fire protection system contractor by the department.

275.1(2) Endorsement. The licensure of each contractor will carry an endorsement for one or more of the following:

- a. Automatic sprinkler system installation.
- b. Special hazards systems installation.
- c. Preengineered dry chemical or wet agent fire suppression systems installation.
- d. Preengineered water-based fire suppression systems in one- and two-family dwellings installation.
- e. Automatic sprinkler system maintenance inspection.
- f. Special hazards system maintenance inspection.
- g. Preengineered dry chemical or wet agent fire suppression systems maintenance inspection.
- h. Preengineered water-based fire suppression systems in one- and two-family dwellings maintenance inspection.

Any person acting as a fire extinguishing system contractor shall do so only in relation to systems covered by the endorsements on the contractor's license.

275.1(3) Length of licensure. A license is normally for one year and expires on March 31 each year. A license which is effective on a date other than April 1 is effective on the date on which the license is issued and expires on March 31 of the second year.

661—275.2(100C) Definitions. The following definitions apply:

"Aerosol fire extinguishing system" means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

"Automatic dry-chemical extinguishing system" means the same as Iowa Code 100C.1(4).

"Automatic fire extinguishing system" means the same as Iowa Code 100C.1(5).

"Automatic sprinkler system" means the same as Iowa Code 100C.1(6).

"Carbon dioxide extinguishing system" means the same as Iowa Code 100C.1(7).

"Clean agent" means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

"Deluge system" means the same as Iowa Code 100C.1(8).

"Dry chemical" means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

"Dry pipe sprinkler system" means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

"Fire extinguishing system contractor," "fire protection system contractor," or *"contractor"* means the same as Iowa Code 100C.1(10).

"Foam extinguishing system" means the same as Iowa Code 100C.1(11).

"Halogenated extinguishing system" means the same as Iowa Code 100C.1(12).

"Hybrid-inert water mist system" means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

"Layout" means drawings, calculations and component specifications to achieve the specified system design installation. "Layout" does not include design.

"Listed" means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

"Maintenance inspection" means the same as Iowa Code 100C.1(13).

"Preengineered dry chemical or wet agent fire suppression system" means any system having predetermined flow rates,

nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer's installation manual, which is referenced as part of the listing.

"Preengineered water-based system" means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

"Responsible managing employee" means the same as Iowa Code 100C.1(14).

"Special hazards system" means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

"Wet agent" or *"wet chemical"* means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

661—275.3(100C) Responsible managing employee. Each fire extinguishing system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 275.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

275.3(1) The responsible managing employee or employees shall be designated in the application for licensure, and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

275.3(2) If a responsible managing employee is no longer acting in that role and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will become the responsible managing employee and the contractor shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

275.3(3) If a responsible managing employee designated by a fire extinguishing system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the fire protection system contractor.

275.3(4) Training requirements. A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

a. Automatic sprinkler system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in water-based systems layout.

b. Special hazards system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or

(2) Current certification by the NICET at level III or above in special hazard systems.

c. Preengineered dry chemical or wet agent fire suppression system installation:

(1) Current certification by the NICET at level II or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.

d. Preengineered water-based fire suppression system in one- and two-family dwellings installation:

(1) Current certification by the NICET at level II or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.

e. Automatic sprinkler system maintenance inspection:

- (1) Current certification from the NICET at level II in water-based system layout, or
- (2) Current certification by the NICET at level II or above in inspection and testing of water-based systems.

f. Special hazards system maintenance inspection:

- (1) Current certification by the NICET at level II or above in special hazard systems.

g. Preengineered dry chemical or wet agent fire suppression system maintenance inspection:

- (1) Current certification by the NICET at level I or above in special hazard systems, or
- (2) Current certification by the NAFED in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or
- (3) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.

h. Preengineered water-based fire suppression system maintenance inspection:

- (1) Current certification by the NICET at level I or above in special hazard systems, or
- (2) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.

275.3(5) Training or testing approval. Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 275.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm or organization seeking to obtain such approval will apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department is listed on the department's licensing website.

275.3(6) License applicability. Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

- a. Receipt of new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

275.3(7) Portable fire extinguisher requirements. Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

275.3(8) Licensure of persons licensed in other jurisdictions. A fire protection system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

661—275.4(100C) License requirements. A fire extinguishing system contractor shall meet all of the following requirements in order to receive licensure from the department and continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

275.4(1) The contractor shall designate one or more responsible managing employees as provided in rule 661—275.3(100C).

275.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of a fire extinguishing system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

275.4(3) The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative

Code. The contractor shall provide a copy of the contractor's current registration from the Iowa workforce development department with the contractor's application for licensure.

EXCEPTION: A contractor will not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code. Written documentation of such exemption must be provided to the department at the time of application for licensure as a fire protection system contractor.

275.4(4) The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

275.4(5) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

275.4(6) Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a fire protection system contractor shall apply for licensure following 481—Chapter 7.

661—275.6(100C) Application and fees.

275.6(1) Application. Any contractor seeking licensure as a fire protection system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or the department's website. The application form shall be submitted with all required attachments and the required application fee. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

275.6(2) License fee.

a. The license fee is \$500 for one year.

b. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 275.1(2), there will be an additional fee of \$50 for each endorsement beyond the first.

c. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

275.6(3) Payment. The license fee maybe submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

275.6(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended license.

b. A contractor will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in the designation of a responsible managing employee;

(2) A change in insurance coverage; or

(3) A change in any other material information included in or with the initial or renewal application. A change in the address of the business is a material change.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

275.6(5) Attachments. Required attachments to the application for licensure are outlined on the department's website.

661—275.7(100C) Complaints. Complaints regarding the performance of any licensed contractor, failure of a licensed contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without licensure may be filed with the department.

Complaints should be as specific as possible and clearly identify the contractor against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

661—275.8(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may deny, suspend or revoke the license of a contractor, or assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as a fire extinguishing system contractor is violated.

275.8(1) Denial. The department may deny an application for licensure for reasons including, but not limited to:

a. If the applicant makes a false statement on the application form or in any other submission of information required for license. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as a fire extinguishing system contractor in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire extinguishing system contractor and if the basis of that action reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have been previously barred for cause from operating as a fire extinguishing system contractor in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. “Conviction” as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee’s profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

275.8(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as a fire extinguishing system contractor in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

275.8(3) Revocation.

a. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire extinguishing system incorrectly installed by a licensed contractor or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

b. A new application for licensure from a contractor whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information which was the basis for revocation even after any such period established by the department has expired.

275.8(4) Disqualifications for criminal convictions limited. A person’s conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

275.8(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

275.8(6) Appeals. Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor under this rule may be appealed by the contractor within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100C.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	3,596
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	99

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31,2023	Total Rule Count:	8
IAC #:	661	Chapter/ SubChapter/ Rule(s):	276	Iowa Code Section Authorizing Rule:	100D.5
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—276.1(100D) Establishment of program. To explain the establishment of a fire protection system installer and maintenance worker licensing program pursuant to Iowa Code chapter 100D.

661—276.2(100D) Definitions. To define terms used in the rule.

661—276.3(100D) Licensing requirements. To outline the requirements for obtaining a license from the department.

661—276.4(272C) Licensure of persons licensed in other jurisdictions. To explain the requirements and process for licensure of persons licensed in other jurisdictions, pursuant to Iowa Code section 272C.12.

661—276.5(100D) Application and fees. To explain the application process and required fees for licensure pursuant to this chapter.

661—276.6(100D) Complaints. To explain the procedure for submitting complaints.

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. To explain the reasons for which a license may be denied, suspended, or revoked and the process by which the decision may be appealed.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. To explain the process and requirements for licensure of military service members, veterans, and spouses.

Is the benefit being achieved? Please provide evidence.

661—276.1(100D) Establishment of program. Yes, the benefit is being achieved.

661—276.2(100D) Definitions. Yes, the benefit is being achieved.

661—276.3(100D) Licensing requirements. Yes, the benefit is being achieved.

661—276.4(272C) Licensure of persons licensed in other jurisdictions. Yes, the benefit is being achieved.

661—276.5(100D) Application and fees. Yes, the benefit is being achieved.

661—276.6(100D) Complaints. Yes, the benefit is being achieved.

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. Yes, the benefit is being achieved.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. Yes, however it is proposed that this rule be repealed and combined into one section for the entire department as part of the state realignment.

What are the costs incurred by the public to comply with the rule?

661—276.1(100D) Establishment of program. N/A

661—276.2(100D) Definitions. N/A

661—276.3(100D) Licensing requirements. The cost to the applicant to meet the training requirements necessary for licensure.

661—276.4(272C) Licensure of persons licensed in other jurisdictions. Minimal administrative costs associated with demonstrating other licensure.

661—276.5(100D) Application and fees. The cost of the license fee.

661—276.6(100D) Complaints. N/A

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. Any potential civil penalty upon violation of the law or costs associated with pursuing a contested case appeal, if requested.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. N/A

What are the costs to the agency or any other agency to implement/enforce the rule?

661—276.1(100D) Establishment of program. Any costs associated with this rule are attributable to the responsibilities assigned by Iowa Code.

661—276.2(100D) Definitions. N/A

661—276.3(100D) Licensing requirements. Costs to the department include staff ensuring compliance with requirements of Iowa Code chapter 100D.

661—276.4(272C) Licensure of persons licensed in other jurisdictions. Costs to the department include staff reviewing licensing submissions.

661—276.5(100D) Application and fees. Costs to the department include staff and software to process applications and payments.

661—276.6(100D) Complaints. Any costs of staff to investigate a complaint.

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. The department may incur court costs or legal fees associated with appeals by licensees.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. Costs to the department include staff and software to process applications.

Do the costs justify the benefits achieved? Please explain.

661—276.1(100D) Establishment of program. Yes, the costs of the rule justify the benefit.

661—276.2(100D) Definitions. N/A

661—276.3(100D) Licensing requirements. Yes, the costs of the rule justify the benefit.

661—276.4(272C) Licensure of persons licensed in other jurisdictions. Yes, the costs of the rule justify the benefit.

661—276.5(100D) Application and fees. Yes, the costs of the rule justify the benefit.

661—276.6(100D) Complaints. Yes, the costs of the rule justify the benefit.

661—276.7(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. Yes, the costs of the rule justify the benefit.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. N/A

Are there less restrictive alternatives to accomplish the benefit? YES X NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No less restrictive alternatives are believed to exist. The requirements mirror content of statutory requirements in Iowa Code 100D.5.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 276 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—276.4(272C) Licensure of persons licensed in other jurisdictions. This rule is being repealed, but pertinent content included in other appropriate rules.

661—276.8(272D) Veterans, military service members, and certain survivor beneficiaries. This rule is being repealed, but pertinent content included in other appropriate rules.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 276
LICENSING OF FIRE PROTECTION SYSTEM TECHNICIANS

661—276.1(100D) Establishment of program. The fire protection system technician license is established pursuant to Iowa

Code chapter 100D.

276.1(1) Licensing required. A person shall not act as a fire protection system installer and maintenance worker without being currently licensed as a fire protection system technician by the department, except as provided in Iowa Code sections 100D.2(1) and 100D.11.

a. For purposes of Iowa Code section 100D.2(1)(a), “direct supervision” means that the person supervising the person performing the work shall be on the job site while the work being supervised is performed.

b. For purposes of Iowa Code section 100D.2(1)(d), the work performed which is subject to the provisions of this chapter must be within the scope of the endorsement(s) of the licensed contractor employing the responsible managing employee.

276.1(2) Endorsement. Any person acting as a fire protection system installer and maintenance worker shall do so only in relation to systems and work covered by the endorsements on the person’s license. The license of each technician shall carry an endorsement for one or more of the following:

- a.* Automatic sprinkler system installation.
- b.* Special hazards system installation.
- c.* Preengineered dry chemical or wet agent fire protection systems installation.
- d.* Preengineered water-based fire protection systems in one- and two-family dwellings installation.
- e.* Automatic sprinkler system maintenance inspection.
- f.* Special hazards system maintenance inspection.
- g.* Preengineered dry chemical or wet agent fire protection systems maintenance inspection.
- h.* Preengineered water-based fire protection systems in one- and two-family dwellings maintenance inspection, or
- i.* Fire protection technician trainee.

276.1(3) Length of licensure. Licensure shall normally be for two years and will expire on March 31 of the second year after the license has been issued. A license which is effective on a date other than April 1 will be effective on the date on which the license is issued and will expire the next March, after one year has passed from the date on which the license was issued. A technician trainee license may be renewed once and a person may work as a technician trainee for a maximum of four years.

661—276.2(100D) Definitions. The following definitions apply:

“*Aerosol fire extinguishing system*” means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

“*Apprentice fire protection system installer and maintenance worker*” means the same as Iowa Code 100D.1(1).

“*Automatic fire extinguishing system*” means the same as Iowa Code 100C.1(5).

“*Automatic sprinkler system*” means the same as Iowa Code 100C.1(6).

“*Carbon dioxide extinguishing system*” means the same as Iowa Code 100C.1(7).

“*Clean agent*” means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

“*Deluge system*” means the same as Iowa Code 100C.1(8).

“*Department*” means the same as Iowa Code 100D.1(2).

“*Dry chemical*” means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

“*Dry pipe sprinkler system*” means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

“*Fire extinguishing system contractor,*” “*fire protection system contractor,*” or “*contractor*” means the same as Iowa Code 100D.1(4).

“*Fire protection system*” means the same as Iowa Code 100D.1(5).

“*Fire protection system installation*” means the same as Iowa Code 100D.1(6).

“*Fire protection system installer and maintenance worker*” or “*fire protection system technician*” means the same as Iowa Code 100D.1(8). A fire protection system technician shall be an employee of a fire protection system contractor or, if employed by anyone other than a fire protection system contractor, shall perform work requiring licensing as a fire protection system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

“*Fire protection system maintenance*” means the same as Iowa Code 100D.1(7).

“*Foam extinguishing system*” means the same as Iowa Code 100C.1(11).

“*Halogenated extinguishing system*” means the same as Iowa Code 100C.1(12).

“*Hybrid-inert water mist system*” means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

“*Layout*” means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

“*Listed*” means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of the production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“*Preengineered dry chemical or wet agent fire suppression system*” means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer’s installation manual, which is referenced as part of the listing.

“*Preengineered fire protection system*” means the same as Iowa Code 100D.1(9).

“*Preengineered water-based fire protection system*” means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

“*Responsible managing employee*” means the same as Iowa Code 100D.1(10).

“*Routine maintenance*” means the same as Iowa Code 100D.1(11).

“*Special hazards system*” means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

“*Wet agent*” or “*wet chemical*” means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

661—276.3(100D) Licensing requirements. A fire protection system installer and maintenance worker shall meet all of the following requirements in order to receive a license from the department and shall continue to meet all requirements throughout the period of licensure. A licensee shall notify the department, in writing, within 30 calendar days if the licensee fails to meet any requirement for licensure.

276.3(1) Compliance. Each licensee shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and in any political subdivision in which the licensee is performing work.

276.3(2) Training requirements. An applicant for a license shall meet one of the requirements for the following endorsements:

a. Automatic sprinkler system installation:

(1) Current certification by the National Inspection Testing and Certification Corporation (NITC) in the STAR Fire Sprinkler fitting Mastery Examination, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in water-based system layout, or

(3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

b. Special hazards system installation:

(1) Current certification by the NICET at level I or above in special hazards systems.

c. Preengineered dry chemical or wet agent fire protection system installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs, or

(4) Current certification by the Fire Protection Certification LTD (FPC) in commercial kitchen fire suppression system service, pre-engineered fire suppression maintenance, or both.

d. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs.

e. Automatic sprinkler system maintenance inspection:

- (1) Current certification by the NITC in the STAR Fire Sprinkler fitting Mastery Examination, or
- (2) Current certification by the NICET at level I or above in water-based systems layout, or
- (3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

f. Special hazards system maintenance inspection:

- (1) Current certification by the NICET at level I or above in special hazard systems.

g. Preengineered dry chemical or wet agent fire protection system maintenance inspection:

- (1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the NAFED in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects, or

(4) Current certification by the FPC in commercial kitchen fire suppression system service, pre-engineered fire suppression maintenance, or both.

h. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

- (1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects.

i. Fire protection system technician trainee: Submission of a completed application no later than the first day of employment. A fire protection system technician trainee may perform work which requires licensure under this chapter only under the direct supervision of a licensed fire protection system technician or responsible managing employee whose license contains one or more endorsements as provided in subrule 275.1(2) or 276.1(2), and that work must be within the scope of work authorized by the endorsements held by the supervising fire protection system technician or responsible managing employee. At least one licensed fire protection system technician or responsible managing employee must be present for every three apprentice fire protection system installers and maintenance workers or fire protection system technician trainees performing work related to fire protection systems.

276.3(3) Continuing education. A license may be renewed only if the licensee has completed recertification of the applicable certification requirements relative to the endorsement(s) for which the license is being renewed.

276.3(4) Training or testing approval. Satisfactory completion of an applicable training or testing program approved by the department may replace any of the endorsement requirements of subrule 276.3(2). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

276.3(5) License applicability. Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific endorsement(s) identified on the license. Work performed in the state shall not begin prior to:

a. Receipt of a new or renewed license issued by the department to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

276.3(6) Portable fire extinguisher requirements. Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

276.3(7) Licensure of persons licensed in other jurisdictions. A fire protection system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

276.3(8) Veterans and active duty military. Any individual serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, should apply for licensure following 481—Chapter 7

661—276.4(100D) Application and fees.

276.4(1) Application. Any person seeking licensure as a fire protection system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and license fee. An application

is not complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

276.4(2) License fee.

a. The fee for a permanent or provisional license, except for a trainee license, is \$200. If an application for a license provides for more than one endorsement as provided in subrule 276.1(2), there will be an additional fee of \$25 for each endorsement beyond the first.

b. The fee for a fire protection system technician trainee license is \$100.

c. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

276.4(3) Payment. The license fee shall be submitted electronically, or mailed or hand-delivered by draft, check, or money order in the applicable amount payable to the Iowa Department of Inspections, Appeals, and Licensing. Cash payments are not accepted.

276.4(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with a request for an amended license.

b. A licensee will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the licensee's new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

276.4(5) Attachments. Required attachments to the application for a license are outlined on the department's website.

661—276.5(100D) Complaints. Complaints regarding the performance of any licensed fire protection system technician, failure of a licensee to meet any of the requirements established in Iowa Code chapter 100D or this chapter or any other provision of law, or persons operating as fire protection system installers and maintenance workers without licensure may be submitted to the departments. Complaints should be as specific as possible and clearly identify the licensee or other person against whom the complaint is filed. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

661—276.6(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. If a licensee or person who performs work requiring a license violates any provision of these rules or any other provision of law related to work requiring licensure pursuant to this chapter, the department may deny, suspend or revoke a license or assess a civil penalty to a licensee or to a person who performs work requiring licensure pursuant to this chapter and who is not licensed.

276.6(1) Denial. The department may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from licensure equivalent to that provided for in this chapter in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire protection system installer and maintenance worker and if the basis of that action reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have been previously barred for cause from operating as a fire protection system installer and maintenance worker in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the

courts of this state or another state, territory or country. “Conviction” as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee’s profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

276.6(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100D or for a failure to meet any legal requirement to operate as a fire protection system installer and maintenance worker in this state. Failure to provide any notice to the department as required by these rules may be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

276.6(3) Revocation.

a. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire protection system incorrectly installed by a licensee or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

b. A new application for a license from an applicant whose license has previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The department may specify in the revocation order a period longer than one year before a new application for a license may be considered. When a new application for a license from a person whose license was previously revoked is being considered, the applicant may be denied a license based upon the same information which was the basis for revocation even after any such period established by the department has expired.

276.6(4) Disqualifications for criminal convictions limited. A person’s conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

276.6(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

276.6(6) Appeals. Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensee or other person under this rule may be appealed within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100D.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	3,960
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	109

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31,2023	Total Rule Count:	11
IAC #:	661	Chapter/ SubChapter/ Rule(s):	277	Iowa Code Section Authorizing Rule:	100C
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-725-6178

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—277.1(100C) Establishment of program. To explain the establishment of the alarm system contractor and alarm system installer licensing programs pursuant to Iowa Code chapter 100C.

661—277.2(100C) Definitions. To define terms used in the rule.

661—277.3(100C) Responsible managing employee. To explain the requirements for an individual to qualify and be designated as a responsible managing employee by a contractor seeking to obtain a license pursuant to this chapter.

661—277.4(100C) Contractor licensing requirements. To explain the requirements for licensure as an alarm system contractor.

661—277.5(100C) Contractor application and fees. To explain the application process and required fees for alarm system contractor licensure pursuant to this chapter.

661—277.6(100C) Technician licensure requirements. To explain the requirements for licensure as an alarm system technician.

661—277.7(100C) Technician application and fees. To explain the application process and required fees for alarm system technician licensure pursuant to this chapter.

661—277.8(272C) Licensure of persons licensed in other jurisdictions. To explain the requirements and process for licensure of persons licensed in other jurisdictions, pursuant to Iowa Code section 272C.12.

661—277.9(100C) Complaints. To explain the procedure for submitting complaints.

661—277.10(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. To explain the reasons for which a license may be denied, suspended, or revoked and the process by which the decision may be appealed.

661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. To explain the process and requirements for licensure of military service members, veterans, and spouses.

Is the benefit being achieved? Please provide evidence.

661—277.1(100C) Establishment of program. Yes, the benefit is being achieved.

661—277.2(100C) Definitions. Yes, the benefit is being achieved.

661—277.3(100C) Responsible managing employee. Yes, the benefit is being achieved.

661—277.4(100C) Contractor licensing requirements. Yes, the benefit is being achieved.

661—277.5(100C) Contractor application and fees. Yes, the benefit is being achieved.

661—277.6(100C) Technician licensure requirements. Yes, the benefit is being achieved.

661—277.7(100C) Technician application and fees. Yes, the benefit is being achieved.

661—277.8(272C) Licensure of persons licensed in other jurisdictions. Yes, the benefit is being achieved.

661—277.9(100C) Complaints. Yes, the benefit is being achieved.

661—277.10(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Yes, the benefit is being achieved.

661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. Yes, however it is proposed that this rule be repealed and combined into one section for the entire department as part of state realignment.

What are the costs incurred by the public to comply with the rule?

661—277.1(100C) Establishment of program. N/A
661—277.2(100C) Definitions. N/A
661—277.3(100C) Responsible managing employee. Costs to ensure a responsible managing employee has the required training.
661—277.4(100C) Contractor licensing requirements. Costs to the contractor to ensure a responsible managing employee has the appropriate training and to maintain the required liability insurance.
661—277.5(100C) Contractor application and fees. The cost of the license fee.
661—277.6(100C) Technician licensure requirements. Costs to the applicant to meet the training requirements necessary for licensure.
661—277.7(100C) Technician application and fees. The cost of the license fee.
661—277.8(272C) Licensure of persons licensed in other jurisdictions. Minimal administrative costs associated with demonstrating other licensure.
661—277.9(100C) Complaints. N/A
661—277.10(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Any potential civil penalty upon violation of the law or costs associated with pursuing a contested case appeal, if requested.
661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. N/A

What are the costs to the agency or any other agency to implement/enforce the rule?

661—277.1(100C) Establishment of program. Any costs associated with this rule are attributable to the responsibilities assigned by Iowa Code chapter 100C.
661—277.2(100C) Definitions. N/A
661—277.3(100C) Responsible managing employee. Costs to the department include staff monitoring the program and ensuring compliance with requirements of Iowa Code chapter 100C.
661—277.4(100C) Contractor licensing requirements. Costs to the department include staff monitoring the program and ensuring compliance with requirements of Iowa Code chapter 100C.
661—277.5(100C) Contractor application and fees. Costs to the department include staff and software to process applications and payments.
661—277.6(100C) Technician licensure requirements. Costs to the department include staff ensuring compliance with requirements of Iowa Code chapter 100C.
661—277.7(100C) Technician application and fees. Costs to the department include staff and software to process applications and payments.
661—277.8(272C) Licensure of persons licensed in other jurisdictions. Costs to the department include staff and software to process applications and payments.
661—277.9(100C) Complaints. Any costs of staff to investigate a complaint.
661—277.10(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may incur court costs or legal fees associated with appeals by licensees.
661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. Costs to the department include staff and software to process applications.

Do the costs justify the benefits achieved? Please explain.

661—277.1(100C) Establishment of program. Yes, the costs of the rule justify the benefit.
661—277.2(100C) Definitions. N/A
661—277.3(100C) Responsible managing employee. Yes, the costs of the rule justify the benefit.
661—277.4(100C) Contractor licensing requirements. Yes, the costs of the rule justify the benefit.
661—277.5(100C) Contractor application and fees. Yes, the costs of the rule justify the benefit.
661—277.6(100C) Technician licensure requirements. Yes, the costs of the rule justify the benefit.
661—277.7(100C) Technician application and fees. Yes, the costs of the rule justify the benefit.
661—277.8(272C) Licensure of persons licensed in other jurisdictions. Yes, the costs of the rule justify the benefit.
661—277.9(100C) Complaints. Yes, the costs of the rule justify the benefit.
661—277.10(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. Yes, the costs of the rule justify the benefit.
661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. N/A

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No less restrictive alternatives exist because the requirements mirror content of statutory requirements in

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 277 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law. The department has significantly edited this chapter for efficiency.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—277.8(272C) Licensure of persons licensed in other jurisdictions. This rule is being repealed, but pertinent content included in other appropriate rules.

661—277.11(272C) Veterans, military service members, and certain survivor beneficiaries. This rule is being repealed, but pertinent content is included in an applicable DIAL chapter.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 277
LICENSING OF ALARM SYSTEM CONTRACTORS AND TECHNICIANS

661—277.1(100C) Establishment of program. The alarm system contractor and alarm system technician license are established pursuant to Iowa Code chapter 100C.

277.1(1) Licensure required. No person shall act as an alarm system contractor without being currently licensed as an alarm system contractor by the department. No person shall act as an alarm system technician without being currently licensed by the department as an alarm system contractor or alarm system technician unless the person is engaged in the installation of alarm system components, is currently licensed pursuant to Iowa Code chapter 103, and is exempt from requirements for licensure by the department as an alarm system technician pursuant to Iowa Code chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a licensed contractor, licensed technician, or person licensed pursuant to Iowa Code chapter 103 who is working as a technician without licensing pursuant to Iowa Code chapter 103.

277.1(2) Endorsement.

a. The licensure of each contractor, technician, or technician trainee shall carry an endorsement for one or more of the following:

- (1) Alarm system contractor.
 1. Fire alarm system installation.
 2. Nurse call system installation.
 3. Security alarm system installation.
 4. Alarm system maintenance inspection.
 5. Dwelling unit alarm system installation.
- (2) Alarm system technician.
 1. Fire alarm system installation.
 2. Nurse call system installation.
 3. Security alarm system installation.
 4. Alarm system component installation.
 5. Alarm system maintenance inspection.
 6. Dwelling unit alarm system installation.
- (3) Alarm system technician trainee.

b. Any person acting as an alarm system contractor or technician, other than a person who is not required to be licensed for such work by the department, shall do so only in relation to systems covered by the endorsements on the contractor's or technician's license.

277.1(3) Length of licensure. Licensure is normally for three years and will expire on September 30 of the third year after the license has been issued. A license which is effective on a date other than October 1 will be effective on the date on which the license is issued and will expire on the next September 30, after two years have passed from the date on which the license was issued.

661—277.2(100C) Definitions. The following definitions apply:

“*Alarm system*” means the same as Iowa Code 100C.1(1).

“*Alarm system components*” means the portion of an alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable, not including final termination at an alarm panel or final connection of the alarm system or alarm system testing.

“*Alarm system contractor*” or “*contractor*” means the same as Iowa Code 100C.1(2).

“*Alarm system technician*” or “*technician*” means a person who is engaged in the layout, installation, repair, alteration, addition, testing, or maintenance of alarm systems and who is licensed under the provisions of this chapter to perform work authorized by that license and any endorsement pertaining thereto. An alarm system technician shall be an employee of an alarm system contractor or, if employed by anyone other than an alarm system contractor, shall perform work requiring licensing as an alarm system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

“*Alarm system technician trainee*” means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems under the direct supervision of a responsible managing employee or licensed alarm system technician.

“*Alarm system maintenance inspection technician*” means an employee of an alarm system contractor who is engaged in maintenance inspection of fire alarm, nurse call, or security alarm systems.

“*Dwelling alarm system*” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm, nurse call or security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a single-family dwelling or a single dwelling unit of a multifamily residential building and not interconnected with another dwelling alarm system. A dwelling alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

“*Fire alarm system*” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

“*Installation*” means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

“*Layout*” means drawings, calculations and component specifications to achieve the specified system design installation. “*Layout*” does not include design.

“*Maintenance inspection*” means the same as Iowa Code 100C.1(13).

“*Nurse call system*” means a nurse call system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

“*Responsible managing employee*” means the same as Iowa Code 100C.1(14).

“*Security alarm system*” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

661—277.3(100C) Responsible managing employee. Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

277.3(1) The responsible managing employee or employees shall be designated in the application for licensure; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

277.3(2) If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will

become the responsible managing employee and the contractor shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

277.3(3) If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor will designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the alarm system contractor.

277.3(4) A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

a. Fire alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in fire alarm systems, or
- (3) Current certification by the Electronic Security Association (ESA) at level III in certified fire alarm designer (CFAD).

b. Nurse call system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by a nurse call system manufacturer, or
- (3) Current certification by the NICET at level II or above in fire alarm systems, or
- (4) Current certification by the ESA at level II in certified alarm technician (CAT).

c. Security alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level II or above in fire alarm systems, or
- (3) Current certification by the ESA at level II in CAT.

d. Alarm system maintenance inspection:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level II or above in fire alarm systems, or
- (3) Current certification by the ESA at level II in CAT, or
- (4) Current certification by the NICET level II or above in inspection and testing of fire alarm systems.

e. Dwelling unit alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT.

277.3(5) *Training or testing approval.* Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensing requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

277.3(6) *License applicability.* Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

a. Receipt of a new or renewed license issued by the department to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the

applicant.

277.3(7) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

661—277.4(100C) Contractor licensing.

277.4(1) An alarm system contractor shall meet all of the following requirements in order to receive licensure from the department and will continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

a. The contractor designates one or more responsible managing employees as provided in rule 661—277.3(100C).

b. The contractor maintains general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

(1) The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

(2) The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

c. The contractor maintains its current registration as a contractor in accordance with Iowa Code chapter 91C and any rules promulgated thereunder, and provides a copy of the current registration certificate issued pursuant to Iowa Code chapter 91C to the department with the application.

EXCEPTION: If the contractor does not meet the definition of “contractor” for purposes of Iowa Code chapter 91C, such registration is not required. Written documentation of such exemption must be provided to the department upon application for licensure as an alarm system contractor.

d. The contractor maintains compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

277.4(2) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsement for which the licensee is renewing.

277.4(3) An alarm system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

661—277.5(100C) Contractor application and fees.

277.5(1) Application. Any contractor seeking licensure as an alarm system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or the department’s website. The application form shall be submitted with all required attachments and the required application fee. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

277.5(2) Licensure fee. The license fee for alarm system contractors will be \$300 for two years. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 277.1(2), there will be an additional fee of \$50 for each endorsement beyond the first. The department will waive any fee charged to an applicant for a license if the applicant’s household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.5(3) Payment. The license fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

277.5(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended licensure.

b. A contractor will request and the department will issue an amended license for any of the following reasons, and a fee

does not apply:

- (1) A change in the designation of a responsible managing employee;
- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application. A change in the location of a business is a material change; however, no fee will be charged for the issuance of an amended license if the sole reason for amending the license is to reflect a change in location which was necessitated by disaster emergency conditions and the business was located in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

277.5(5) Attachments. Required attachments to the application for licensure are outlined on the department's website

277.5(6) National criminal history check. Each applicant for licensure as a contractor shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

661—277.6(100C) Technician licensure requirements. An applicant for alarm system technician licensure shall meet all of the following requirements which are applicable to the endorsements for which the applicant is applying in order to receive licensure from the department, and continue to meet all such requirements throughout the period of licensure. The technician will notify the department, in writing, within 30 calendar days if the technician fails to meet any applicable requirement for licensure.

277.6(1) The alarm system technician shall meet one of the following criteria for the following endorsements:

a. Fire alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or
- (3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or
- (4) Current certification by the Elite Continuing Education University (CEU) in fire alarm installation techniques (FAIT).

b. Nurse call system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by a nurse call system manufacturer, or
- (3) Current certification by the NICET at level I or above in fire alarm systems, or
- (4) Current certification by the ESA at level I in CAT, or
- (5) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

c. Security alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the CEU in advanced electronic intrusion technician (AEIT), or
- (5) Current certification by the Complete Electrical Academy at level I in Electronic Security Technician.

d. Alarm system component installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

e. Alarm system maintenance inspection:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or

- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the NICET at level I or above in inspection and testing of fire alarm systems, or
- (5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

f. Dwelling unit alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the CEU in alarm level I, or
- (5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

g. Alarm system technician trainee: Submission of a completed application no later than the first day of employment. An alarm system technician trainee may perform work which requires licensure under this chapter only under the direct supervision of a licensed alarm system technician or responsible managing employee whose license contains one or more endorsements as provided in rules 661—277.3(100C) and 661—277.6(100C), respectively, and that work must be within the scope of work authorized by the endorsements held by the supervising alarm system technician or responsible managing employee.

277.6(2) The technician shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the technician is performing work.

277.6(3) Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.6(1). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

277.6(4) Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the technician and will be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee of the technician's employer, unless the employer is not a licensed contractor as allowed by Iowa Code chapter 100C. Work performed in the state shall not begin prior to one of the following:

- a.* Receipt of a new or renewed license issued by the department to the applicant, or
- b.* Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

277.6(5) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

277.6(6) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

277.6(7) An alarm system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

661—277.7(100C) Technician application and fees.

277.7(1) Application. Any technician seeking licensure as an alarm system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date on which work begins in the state or on which an existing license expires, except that an application for endorsement as an alarm system technician trainee may be submitted no later than the first day of employment as an alarm system technician trainee. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and the application fee established in this rule. An application will not be considered complete unless all necessary information is submitted, including attachments and fees, and will not be processed until it is complete.

277.7(2) Licensure fee.

a. The license fee for an alarm system technician will be \$150 for two years, except that the license fee for endorsement as an alarm system technician trainee will be \$50 for one year. There will be an additional fee of \$25 for each endorsement beyond the first.

b. The department will waive any fee charged to an applicant for a license if the applicant's household income does not

exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.7(3) Payment. The certification fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

277.7(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with the request for an amended license.

b. A technician will request and the department will issue an amended license for a change in any material information included in or with the initial or renewal application. A licensee will request and the department will issue an amended license for any of the following reasons and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

c. Other changes in the information required in the application form shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

277.7(5) Attachments. Required attachments to the application for license are outlined on the department's website.

277.7(6) National criminal history check. Each applicant for licensure as a technician shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

661—277.8(100C) Complaints. Complaints regarding the performance of any licensed contractor or technician, failure of a licensed contractor or technician to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or technician without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or technician against whom the complaint is filed. Complaints should be submitted in writing to the department. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

661—277.9(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may deny, suspend or revoke the license of a contractor or technician or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or technician is violated.

277.9(1) Denial. The department may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or technician in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or technician and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or technician. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or technician in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor or technician. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be

established.

g. Willful or repeated violations of the provisions of this chapter.

277.9(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or technician in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

277.9(3) Revocation. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or technician or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license. A new application for licensure from a contractor or technician whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor or technician whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information which was the basis for revocation even after any such period established by the department has expired.

277.9(4) Disqualifications for criminal convictions limited. A person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

277.9(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

277.9(8) Appeals. Any person subject to denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor or technician under this rule may appeal by requesting a contested case hearing, in writing, within 14 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100C.

***For rules being re-promulgated with changes, please attach a document with suggested changes, if available.**

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	3,821
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	131

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	08/07/2023	Total Rule Count:	3
IAC #:	661	Chapter/ SubChapter/ Rule(s):	278	Iowa Code Section Authorizing Rule:	272C.12A
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—278.1(272C) Definitions. To define terms used in the chapter.
661—278.2(272C) Military education, training, and service credit. To explain the process for completion and submission of a military service application form, in order to receive credit for military education, training, and service toward any experience or educational requirement for licensure.
661—278.3(272C) Veteran and spouse of active duty service member reciprocity. To explain the application process for licensure through reciprocity for veterans or spouses licensed in another jurisdiction.

Is the benefit being achieved? Please provide evidence.

Yes, the rule chapter provides guidance for how military service/spouse applicants apply, qualifying education, and reciprocity. It is proposed that this chapter be repealed. It is no longer necessary with state realignment. It will be consolidated into one chapter for all of DIAL.

What are the costs incurred by the public to comply with the rule?

None.

What are the costs to the agency or any other agency to implement/enforce the rule?

The cost of staff to administer the process.

Do the costs justify the benefits achieved? Please explain.

Yes, staff are necessary to review alternative documentation for reciprocity.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

There are no less restrictive alternatives to accomplish the benefit; however, it is proposed that the chapter be repealed and consolidated into one chapter for all of the Department's licensing programs.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, various other agencies have similar rule chapters applicable to only their licensing programs. It is

proposed that this chapter be repealed and consolidated into one chapter for all of DIAL.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—278.1(272C) Definitions.

661—278.2(272C) Military education, training, and service credit.

661—278.3(272C) Veteran and spouse of active duty service member reciprocity.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

None. One rule chapter for the DIAL agency would be applicable.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1362
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	39

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31, 2023	Total Rule Count:	2
IAC #:	661	Chapter/ SubChapter/ Rule(s):	500	Iowa Code Section Authorizing Rule:	103.1 & 6
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—500.1(103) Establishment of program. - The intended benefit of this rule is to provide clarity and direction relating to the establishment and organization of the electrical program.

661—500.2(103) Definitions. - The intended benefit of this rule is to define terms referenced in the board’s rules so as to provide clarity to those rules adopted by the board.

Is the benefit being achieved? Please provide evidence.

661—500.1(103) Establishment of program. - Yes, the benefit is being achieved.

661—500.2(103) Definitions. - Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

661—500.1(103) Establishment of program. - No public costs are incurred.

661—500.2(103) Definitions. – No costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—500.1(103) Establishment of program. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board’s statutory duties pursuant to Iowa Code chapter 103.

661—500.2(103) Definitions. – No costs are incurred.

Do the costs justify the benefits achieved? Please explain.

The rules of this chapter generally provide administrative information for licensees and the public and do not subject the board or public to costs beyond those associated with the Code chapters being implemented, Iowa Code chapters 17A, 103, and 272C.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

661—500.1(103) Establishment of program. - No, the duties and responsibilities are mandated by state law.

661—500.2(103) Definitions. – No, the duties and responsibilities are mandated by state law.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 500 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

661—500.1(103) Establishment of program.

661—500.2(103) Definitions.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 500
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ORGANIZATION AND ADMINISTRATION

661—500.1(103) Establishment of program. The electrician and electrical contractor licensing program is established in the department of inspections, appeals, and licensing. The program is under the direction of the electrical examining board. Contact information of the board office can be found on the department’s website.

661—500.2(103) Definitions. The following definitions apply to all rules adopted by the electrical examining board.

“*Approved by the board*” means the approval of any item, test or procedure by the electrical examining board by adoption of a resolution at a meeting of the board, provided that the approval has not been withdrawn by a later resolution of the board. A list of any such items, tests, or procedures that have been approved by the board is available from the board office or from the board website.

“*Complete criminal record*” means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Department*” means the department of inspections, appeals, and licensing.

“*Directly relates*” or “*directly related*” means either that the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession; or that the circumstances under which an offense was committed are customary to the profession.

“*Disqualifying conviction*” or “*disqualifying offense*” means a conviction directly related to the practice of the profession.

“*Division*” means the building and construction bureau of the department of inspections, appeals, and licensing.

“*Documented experience*” means experience which an applicant for licensing has completed and which has been documented by the applicant’s completion and submission of a sworn affidavit or other evidence requested by the board.

“*Eligibility determination*” means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person’s convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

“*Emergency installation*” means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or man-made disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work, and may be performed prior to submission of a request for permit or request for inspection. A request for permit and request for inspection, if required by rule 661—552.1(103), should be made as soon as practicable and, in any event, no more than 72 hours after the installation is completed.

“*Final agency action*” means the issuance, denial, suspension, or revocation of a license. If an action is subject to appeal, “final agency action” has occurred when the administrative appeal process provided for in 661—Chapter 503 has been exhausted or when the deadline for filing an appeal has expired.

“*Full-time*” means a minimum of 1,700 hours of work in a one-year period.

“*Issuing jurisdiction*” means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

“*Registered apprenticeship program*” means an electrical apprenticeship program registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or an electrical apprenticeship program registered with a state agency whose registration program is accepted by the Bureau of Apprenticeship and Training in lieu of direct registration with the Bureau of Apprenticeship and Training.

“*Residential electrical work*” means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

“*Transferring jurisdiction*” means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

These rules are intended to implement Iowa Code chapters 17A, 103 and 272C.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	235
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 31,2023	Total Rule Count:	2
IAC #:	661	Chapter/ SubChapter/ Rule(s):	501	Iowa Code Section Authorizing Rule:	103.4
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—501.1(103) Board meetings and agenda. - The intended benefit of this rule is to provide clarity and direction as to the calling of board meetings.

661—501.2 to 501.4 Reserved. - This was a place holder for possible future rules.

661—501.5(17A) Waivers. - The intended benefit of this rule is to provide clarity and direction as to submission of waivers.

Is the benefit being achieved? Please provide evidence.

661—501.1(103) Board meetings and agenda. - It is proposed that this rule be repealed as there is no benefit to this rule as the wording can be found in Iowa Code and on DIAL web site.

661—501.2 to 501.4 Reserved. - It is proposed that this rule be repealed as there is no benefit to this rule.

661—501.5(17A) Waivers. – Yes, however it is proposed that this rule be repealed. In light of the realignment with DIAL resulting from SF 514, it is unnecessary and unreasonably duplicative to repromulgate this rule. Rather, DIAL intends to revise and repromulgate 481—Chapter 6, “Uniform Waiver Rules,” to appropriately encompass the procedures of this rule.

What are the costs incurred by the public to comply with the rule?

661—501.1(103) Board meetings and agenda. - No public costs are incurred.

661—501.2 to 501.4 Reserved. - No public costs are incurred.

661—501.5(17A) Waivers. - No public costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—501.1(103) Board meetings and agenda. - No specific financial costs needed to implement/enforce

the rule outside general operating budget.

661—501.2 to 501.4 Reserved. – No cost incurred.

661—501.5(17A) Waivers. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

Do the costs justify the benefits achieved? Please explain.

No, see explanation above.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The duties and responsibilities addressed in this chapter are mandated by state law, but appropriate text is located in other Code or Administrative Code chapters.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, see above.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—501.1(103) Board meetings and agenda.

661—501.2 to 501.4 Reserved.

661—501.5(17A) Waivers.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

See updated 661-501 draft included with rulemaking package.

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	186
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	2

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

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Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 30, 2023	Total Rule Count:	10
IAC #:	661	Chapter/ SubChapter/ Rule(s):	502	Iowa Code Section Authorizing Rule:	103.7-17, 21-24, 38
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—502.1(103) License categories and licenses required. - The intended benefit of this rule is to explain what types of licensure is available.

661—502.2(103) License requirements. - The intended benefit of this rule is to provide clarity on licensure requirements.

661—502.3(103) License terms and fees. - The intended benefit of this rule is to establish license fees. The license fees provided in this rule are set at the amounts identified in Iowa Code section 103.19. Notably, these fees are in line with neighboring states’ fees. For example, Nebraska maintains the same annual electrical contractor fee (\$125). Minnesota’s electrical contractor fee is \$5 less than Iowa’s for an initial license, and \$3 more than Iowa’s for an annual renewal. The fees collected in Iowa do not exceed program costs such that they should be reduced.

661—502.4(103) Disqualifications for licensure. - The intended benefit of this rule is to explain why an application can be denied.

661—502.5(103) License application. - The intended benefit of this rule is to provide direction on submitting license applications and the processes to become licensed.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. - The intended benefit of this rule is to provide clarity on possible restrictions that can be placed on a class “B” license.

661—502.7(103) Financial responsibility. – The intended benefit of this rule is to provide clarity on what is required by electrical contracting firms.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions. - The intended benefit of this rule is to provide clarity on eligibility for licensure by those with criminal convictions.

661—502.9(272C) Licensure by verification. - The intended benefit of this rule is to provide clarity on license options for persons coming from other states that issue similar licenses.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements. The intended benefit of this rule is to provide clarity on license options for persons coming from other states that do not issue similar licenses.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved for all rules.

What are the costs incurred by the public to comply with the rule?

661—502.1(103) License categories and licenses required. - No public costs are incurred.

661—502.2(103) License requirements. - The cost of completing all required training, education, and verifying minimum work experience will typically be borne by the license applicant. The stated requirements are imposed by statute and may not be waived by the board.

661—502.3(103) License terms and fees. Licensees must pay the fees as required by the rule, depending on the applicable licenses the individual maintains. .

661—502.4(103) Disqualifications for licensure. - No public costs are incurred.

661—502.5(103) License application. - No public costs are incurred beyond the de minimis costs of collecting necessary documentation and submitting completed paperwork.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. - No public costs are incurred.

661—502.7(103) Financial responsibility. Proof of liability insurance is required by statute. The cost of procuring necessary insurance will be borne by the applicant contractor. Costs will likely vary depending on coverage purchased and claims history.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions. - No public costs are incurred beyond the de minimis costs of collecting necessary documentation and submitting completed paperwork.

661—502.9(272C) Licensure by verification. - No public costs are incurred beyond the de minimis costs of collecting necessary documentation and submitting completed paperwork.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements. - No public costs are incurred beyond the de minimis costs of collecting necessary documentation and submitting completed paperwork.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—502.1(103) License categories and licenses required. - No specific financial costs needed to

implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—502.2(103) License requirements. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—502.3(103) License terms and fees. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—502.4(103) Disqualifications for licensure. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—502.5(103) License application. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—502.7(103) Financial responsibility. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—502.9(272C) Licensure by verification. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

Do the costs justify the benefits achieved? Please explain.

661—502.1(103) License categories and licenses required. - Yes, this helps clarify what licensure might be needed by industry professionals.

661—502.2(103) License requirements. - Yes, this helps assure that industry professionals achieve minimum skills and knowledge.

661—502.3(103) License terms and fees. - Yes, this provides clarity and fulfills statutory duty to define fees. The fees collected in Iowa do not exceed program costs such that they should be reduced.

661—502.4(103) Disqualifications for licensure. - Yes, this provides clarity on disqualifications.

661—502.5(103) License application. - Yes, this provides clarification on the application process.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. - Yes, this provides clarity on possible restrictions that can be placed on a class “b” license.

661—502.7(103) Financial responsibility. – Yes, this assures businesses hold insurance and protects the public in the event of misconduct or malfeasance.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions. – Yes, provides clarity.

661—502.9(272C) Licensure by verification. – Yes, this establishes minimum guidelines for out of state professional to become licensed.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements. - Yes, this establishes minimum guidelines for out of state professional to become licensed.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

661—502.1(103) License categories and licenses required. - No, the duties and responsibilities are mandated by state law.

661—502.2(103) License requirements. - No, the duties and responsibilities are mandated by state law.

661—502.3(103) License terms and fees. - No, the responsibilities are mandated by state law.

661—502.4(103) Disqualifications for licensure. - No, the duties and responsibilities are mandated by state law.

661—502.5(103) License application. - No, the duties and responsibilities are mandated by state law.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. - No, the duties and responsibilities are mandated by state law.

661—502.7(103) Financial responsibility. - No, the responsibilities are mandated by state law.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions. - No, the duties and responsibilities are mandated by state law.

661—502.9(272C) Licensure by verification. - No, the duties and responsibilities are mandated by state law.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements. - No, the duties and responsibilities are mandated by state law.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 502 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

661—502.1(103) License categories and licenses required.

661—502.2(103) License requirements.

661—502.3(103) License terms and fees.

661—502.4(103) Disqualifications for licensure.

661—502.5(103) License application.

661—502.6(103) Restriction of use of class B licenses by political subdivisions.

661—502.7(103) Financial responsibility.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

661—502.9(272C) Licensure by verification.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements.

RULES PROPOSED FOR REPEAL (list rule number[s]):

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 502
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING REQUIREMENTS,
PROCEDURES, AND FEES

661—502.1(103) License categories and authority.

502.1(1) The following license categories are established:

- a. Electrical contractor.
- b. Residential electrical contractor.
- c. Master electrician, class A.
- d. Master electrician, class B.
- e. Residential master electrician.
- f. Journeyman electrician, class A.

- g. Journeyman electrician, class B.
- h. Residential electrician.
- i. Apprentice electrician.
- j. Special electrician.
- k. Unclassified person.
- l. Inactive master electrician.

502.1(2) A person who holds any class of license issued by the board, other than a class B license, a residential electrical contractor license, a residential master electrician license, or a residential electrician license, may perform the work authorized by that license anywhere within the state of Iowa. A class B license can be subject to limitations imposed by a political subdivision through a local ordinance pursuant to Iowa Code section 103.29, subsection 4. A person who holds a residential electrical contractor license, a residential master electrician license, or a residential electrician license may perform the work authorized by that license anywhere within the state of Iowa except within a political subdivision which has, by local ordinance limited the use of such a license.

502.1(3) Except as otherwise provided by Iowa Code chapter 103, a person who does not have a current valid license cannot perform work as an electrician or as an unclassified person. A person cannot perform work which requires licensing and is not specifically authorized under the license issued.

502.1(4) An apprentice electrician or an unclassified person, while performing electrical work, shall be directly supervised at all times by a master electrician or a journeyman electrician or, while performing residential electrical work only, by a residential master electrician, a residential electrician, or a special residential electrician. A master electrician, a journeyman electrician, a residential master electrician, or a residential electrician is not permitted to directly supervise more than three apprentice electricians and/or unclassified persons at once.

502.1(5) A journeyman electrician or a residential electrician may only work under the general direction of a master electrician or, while performing residential electrical work only, under the general direction of a residential master electrician.

661—502.2(103) License requirements.

502.2(1) An electrical contractor license may be issued to a person who submits an application with the applicable fee, who holds or employs a person who holds an active master electrician license, who is registered as a contractor with the labor services division of Iowa workforce development. An electrical contractor license issued to a person who holds a class B master electrician license is subject to the same restriction of use as is the class B master electrician license.

502.2(2) A residential electrical contractor license may be issued to a person who is licensed as a class A master electrician, a class B master electrician, or a residential master electrician and who is registered with the state of Iowa as a contractor pursuant to Iowa Code chapter 91C.

502.2(3) A class A master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, and who meets one of the following:

a. Has completed one year of experience as a licensed journeyman electrician, and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; or

b. As of December 31, 2007, held a current valid license as a master electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and one year of experience as a journeyman electrician; or

c. Holds a current class B master electrician license and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(4) A class B master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a master electrician began on or before January 1, 1998.

502.2(5) A residential master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, and who holds a current residential electrician or journeyman electrician license, has 2,000 hours of verified experience as a residential electrician or a journeyman electrician, and has passed a residential master electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(6) A class A journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee, and who meets one of the following:

a. Has successfully completed a registered apprenticeship program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has completed four years of experience as an apprentice electrician.

b. Holds a current class B journeyman electrician license and has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

c. Holds a current electrician license in another state, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has satisfied the sponsorship requirements for testing for a journeyman class A license by providing evidence of all of the following:

(1) Current licensure as a journeyman or master electrician from another state which required passing a test sponsored by that state.

(2) Completion of 18 hours of continuing education units approved by the board.

(3) Completion of 1,000 hours of work in Iowa as an unclassified person.

d. Holds a current license issued by the board; has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; has completed 54 hours of continuing education approved by the board; and has completed 16,000 hours of electrical work while licensed by the board, except as a special electrician, as verified by a master electrician licensed by the board. The 16,000 hours is to include at least the following minimum number of hours of work on commercial or industrial installations in the categories indicated: 500 hours of preliminary work, 2,000 hours of rough-in work, 2,000 hours of finish work, 2,000 hours of lighting and service work, 500 hours of troubleshooting, and 500 hours of motor control work. At least 4,000 hours of the 16,000 hours is to be completed by the applicant within the five years immediately preceding the submission date of the application.

e. Holds a current license issued by the board as a residential electrician or residential master electrician, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has completed 4,000 hours of work on commercial or industrial electrical installations while licensed by the board, as verified by a master electrician licensed by the board. The 4,000 hours is to include at least the following minimum numbers of hours in the categories indicated: 100 hours of preliminary work, 500 hours of rough-in work, 500 hours of finish work, 500 hours of lighting and service work, 100 hours of troubleshooting, and 100 hours of motor control work.

f. Holds a current license issued by the board, has satisfactorily completed an approved postsecondary electrical education program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and, subsequent to beginning the postsecondary electrical education program, has completed at least 6,000 hours of electrical work while licensed by the board, as verified by a master electrician licensed by the board.

502.2(7) A class B journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a journeyman electrician or master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a journeyman electrician or master electrician began on or before January 1, 1998.

502.2(8) A residential electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

a. Has completed 6,000 hours of experience as an apprentice electrician and has passed a residential electrician examination approved by the board. An applicant may take the examination after completing 5,000 hours of experience as an apprentice electrician, although the license will not be issued until the applicant has completed 6,000 hours of such experience; or

b. Has completed 4,000 hours of experience working under the direct supervision of a residential master electrician, a residential electrician, a master electrician, or a journeyman electrician; has successfully completed a minimum of one academic year of an electrical trade school approved by the board; and has passed a residential electrician examination approved by the board; or

c. Has completed 8,000 hours of verified experience as a licensed unclassified person including at least 2,000 hours of verified work experience in residential wiring and has passed a residential electrician examination approved by the board; or

d. Has successfully completed a registered residential electrician apprenticeship program and passed a supervised written residential electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(9) A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee, and who meets the qualifications for any endorsement entered on the license. Each special electrician license is eligible to carry one or more of the following endorsements:

a. Endorsement 1, "Irrigation System Wiring," may be included if requested and the applicant has passed a supervised examination approved by the board or has completed two years, or 4,000 hours, of documented experience in the wiring of irrigation systems.

b. Endorsement 2, "Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems," may be

included if requested and the applicant has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

c. Endorsement 3, “Sign Installation,” may be included if requested. This endorsement does not authorize the holder to connect power to a sign that has a voltage greater than 220V and an ampere rating greater than 20 amps. Initial installation or upgrading of the branch circuits supplying power to the sign may only be completed by a licensed master electrician or by a licensed journeyman electrician under the supervision of a master electrician.

502.2(10) An apprentice electrician license may be issued to a person who submits a completed application to the board with the applicable fee, and who is participating in a registered apprenticeship program. A person may hold an apprentice electrician license for no more than six years from the original date of licensing unless an extension is granted by the board based upon a documented hardship.

502.2(11) A license as an unclassified person may be issued to a person who submits a completed application to the board with the applicable fee, and who is employed by a licensed electrical contractor. Any person who holds a current license issued by the board excluding special electrician licenses, may work as an unclassified person without holding an unclassified person license.

502.2(12) In lieu of renewal of the active master electrician license, an inactive master electrician license may be issued to a holder of a master electrician license whose license is due for renewal and who requests placement in inactive status. It is the responsibility of the holder of an inactive license to maintain all requirements which would apply for an active master electrician license, except for payment of the fee for an active license, during the term of the inactive license. If the license holder fails to meet any such requirement during the term of the inactive license, the license holder will not be entitled to reinstatement of an active license. If the license holder continues to meet all such requirements while holding an inactive license, the license holder may obtain an active master electrician license by surrendering the inactive master electrician license, filing an application for reinstatement, and paying the applicable license fee. The holder of an inactive license who seeks reinstatement of an active license will not receive any refund of the fee paid for the inactive license. A person who holds an inactive license cannot perform work which requires the person to be a holder of that license but may perform work authorized by any active license issued by the board which the person holds.

502.2(13) Retaking an examination. If passage of an examination is a requirement for issuance of a license:

a. An applicant who has taken the examination for a license twice and has failed the examination twice cannot retake the examination until after waiting six months and completing 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of four times.

b. An applicant who has satisfied the conditions of paragraph “a” and who has taken the examination two additional times, or a total of four times, and has failed the examination four times cannot retake the examination until after waiting an additional six months and completing an additional 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504 before taking the examination again. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of six times.

c. An applicant who has satisfied the conditions of paragraph “b” and who has taken the examination two additional times, or a total of six times, and has failed the examination six times cannot retake the examination any additional times unless approved to do so by the board. An applicant who wishes to take an examination after failing it six times may petition the board to allow the applicant to take the examination again after waiting an additional six months. The board may request that an applicant appear personally before the board when considering the petition.

502.2(14) Reciprocal journeyman licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

a. The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

b. The applicant has successfully completed a supervised written examination approved by the other state with a score of 70 or higher in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

- (4) The sworn affidavit under subparagraph 502.2(14)“e”(2), if applicable; and
 - (5) Any other information requested by the board; and
- e.* The applicant has either:
- (1) Completed an approved apprenticeship program; or
 - (2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, as documented by submission of a sworn affidavit signed by the applicant.

502.2(15) Reciprocal master licensing. A master class A license may be issued, without examination, to a person who holds an equivalent license from another state provided that:

a. The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

b. The applicant has successfully completed a supervised written examination approved by the other state, with a score of 70 or higher, in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) Any other information requested by the board, which may include, but is not limited to, additional evidence that the person’s license from the other state is currently valid; and

e. The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, documented by a sworn affidavit signed by the applicant.

661—502.3(103) License terms and fees. The following table sets out the length of term of each license and the fee for the license.

License Type	Term	Fee
Electrical Contractor	3 years	\$375
Residential Electrical Contractor	3 years	\$375
Master Electrician, Class A	3 years	\$375
Master Electrician, Class B	3 years	\$375
Residential Master Electrician	3 years	\$375
Journeyman Electrician, Class A	3 years	\$75
Journeyman Electrician, Class B	3 years	\$75
Residential Electrician	3 years	\$75
Special Electrician	3 years	\$75
Apprentice Electrician	1 year	\$20
Unclassified Person	1 year	\$20
Inactive Master Electrician	3 years	\$75

502.3(3) If a license is issued for less than the period of time specified in the table above, the fee will be prorated according to the number of months for which the license is issued.

502.3(4) A licensee who is on active military deployment for 91 or more consecutive calendar days during the term of a license may have the license period tolled as follows. “Tolled” means that the expiration date of the license will be delayed for

the period of time during which the license term is tolled.

a. A licensee who is on active military deployment for 91 or more consecutive calendar days during a licensing period may have the license terms tolled for one year.

b. A licensee who is on active military deployment for 366 or more consecutive calendar days during a licensing period may have the license terms tolled for two years.

c. A licensee who is on active military deployment for 91 or more consecutive calendar days but fewer than 366 consecutive calendar days may petition the board to have the license tolled for two years upon a showing of a special hardship which would not be alleviated by tolling the license term for only one year.

d. A licensee who requests that the term of a license be tolled pursuant to this subrule will provide a copy of military orders showing the beginning and ending dates of the deployment or deployments which are the basis for the request.

502.3(5) A licensee may obtain a replacement license for a license that has been lost. To order a replacement license, the licensee will notify the board office in writing that the license has been lost and will provide any information needed by the board office, which may include, but is not limited to, the license number, the name of the licensee, and a description of the circumstances of the loss, if known. The fee for issuance of a replacement license is \$15.

EXCEPTION: If a licensee who is located in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 which is currently in force or has been in force within the previous 90 days certifies to the board that the license was lost as a direct result of conditions which relate to the issuance of the disaster emergency proclamation, the fee for replacement of the license can be waived.

502.3(6) Refunds of license fees can be made under the following circumstances:

a. If an error on the part of the staff or the applicant or licensee has resulted in an overpayment of fees, the refund can be in the amount of overpayment and can be made if the overpayment is discovered by staff of the board or if the overpayment is discovered by the applicant or licensee and the applicant or licensee requests a refund.

b. If an applicant for an initial license or a renewal license dies prior to the effective date of a license for which the applicant has applied and paid the applicable fee, the license fee can be refunded to the estate of the applicant upon receipt of a request from the estate of the applicant, accompanied by a certified copy of the death certificate.

502.3(7) The fee for submitting a petition for eligibility determination as defined in subrule 502.8(2) is \$25.

502.3(8) The board will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

661—502.4(103) Disqualifications for licensure. An application for a license can be denied if any of the following apply:

502.4(1) The applicant fails to meet the requirements for the license for which the applicant has applied or the applicant fails to provide adequate documentation of any requirement.

502.4(2) The applicant has previously had a license revoked or suspended by the board, and the circumstances which formed the basis of the revocation or suspension have not been corrected. If a license was revoked or suspended and conditions were imposed for the restoration of the license, licensure will be denied unless those conditions have been met.

502.4(3) The applicant has been denied, for cause, a license to work, or a license as an electrician has been revoked, for cause, in any other state or political subdivision and the applicant has not subsequently received a license from the state or political subdivision which denied or revoked the license. An applicant who has been denied a license pursuant to this provision may apply to the board for a license and, upon a showing of evidence satisfactory to the board that the condition or conditions which led to the denial or revocation no longer apply, the board may grant the license to the applicant.

502.4(4) The applicant falsifies or fails to provide any information requested in connection with the application or falsifies any other information provided to the board in support of the application.

502.4(5) The applicant has been convicted of a disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the final order or judgment of conviction or plea of guilty in this state or another state constitutes conclusive evidence of the conviction.

502.4(6) The applicant has unpaid fees due to the board which are 120 days or more past due. The license for which the applicant applied may be issued after the fees are paid if the applicant is not otherwise disqualified from obtaining the license.

661—502.5(103) License application.

502.5(1) Any person seeking a license from the board is to submit a completed application to the board accompanied by the applicable fee payable by check, money order, or warrant to the Iowa Department of Inspections, Appeals, & Licensing. The memo area of the check should read "Electrician Licensing Fees." The application is to be submitted on the form prescribed by the board, which may be obtained from the board office.

502.5(2) Upon receipt of a completed application, the board executive secretary or designee has discretion to:

- a. Authorize the issuance of a license, certification, or examination application.
- b. Refer the application to a committee of the board for review and consideration when the board executive secretary determines that matters raised in or revealed by the application, including but not limited to prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience, are relevant in determining the applicant's qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

(1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 661—502.8(272C).

- (2) Chemical dependence.
- (3) Competency.
- (4) Physical or psychological illness or disability.
- (5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.
- (6) Professional disciplinary history.
- (7) Education or experience.

502.5(3) Following review and consideration of an application referred by the board executive secretary, the committee may at its discretion:

- a. Authorize the issuance of the license, certification, or examination application.
- b. Recommend to the board denial of the license, certification, or examination application.
- c. Recommend to the board issuance of the license or certification under certain terms and conditions or with certain limitations.
- d. Refer the license, certification, or examination application to the board for review and consideration without recommendation.

502.5(4) Following review and consideration of a license, certification, or examination application referred by the committee, the board can:

- a. Authorize the issuance of the license, certification, or examination application;
- b. Deny the issuance of the license, certification, or examination application; or
- c. Authorize the issuance of the license or certification under certain terms and conditions or with certain limitations.

502.5(5) The committee or board can request an applicant to appear for an interview before the committee or the full board as part of the application process.

661—502.6(103) Restriction of use of class B licenses by political subdivisions. A political subdivision may disallow or limit the use of a class B license to perform electrical work within the geographic limits of that subdivision through adoption of a local ordinance. A copy of any such ordinance is to be filed with the board office prior to the effective date of the ordinance. If a class B license holder held a license issued or recognized by a political subdivision on December 31, 2007, that political subdivision cannot restrict the license holder from performing work which would have been permitted under the terms of the license issued or recognized by the political subdivision.

EXCEPTION: An ordinance restricting or disallowing electrical work by holders of class B licenses will not apply to work which is not subject to the issuance of permits by the political subdivision.

661—502.7(103) Financial responsibility. Any holder of an electrical contractor license or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license issued pursuant to 661—Chapters 500 through 503 is to, at all times, maintain insurance coverage as provided in this rule.

502.7(1) The licensee is to maintain general and complete operations liability insurance in the amount of at least \$1 million for all work performed which requires licensing pursuant to 661—Chapters 500 through 503.

a. The carrier of any insurance coverage maintained by the licensee to meet this requirement will notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The licensee will cease operation immediately if the insurance coverage required by this rule is no longer in force and other insurance coverage meeting the requirements of this rule is not in force. A licensee will not initiate any electrical work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this rule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this rule has been obtained and will be in force upon cancellation of the prior coverage.

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

502.8(1) License application. Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

a. *Full disclosure.* An applicant is to disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. *Documentation and personal statement.* An applicant with one or more convictions is to submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

c. *Rehabilitation.* An applicant will, as part of the license application, submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant with one or more disqualifying offenses who has been found rehabilitated still needs to satisfy all other requirements for licensure.

d. *Nonrefundable fees.* Any application fees will not be refunded if the license is denied.

502.8(2) Eligibility determination. An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with criminal convictions is not required to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner is to submit all of the following:

a. A completed eligibility determination form, which is available on the board's website;

b. The complete criminal record for each of the petitioner's convictions;

c. A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner rehabilitated;

d. All evidence of rehabilitation that the petitioner wants the board to consider; and

e. Payment of a nonrefundable fee in the amount of \$25.

502.8(3) Appeal. A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings apply unless otherwise specified in this rule. If the petitioner or applicant fails to file a timely appeal, the board's written decision will become a final order.

a. *Presiding officer.* The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 661—10.306(17A), requesting that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

b. *Burden.* The office of the attorney general represents the board's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. If the office of the attorney general satisfies this burden by a preponderance of the evidence, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

c. *Judicial review.* A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding is to be made in accordance with Iowa Code chapter 17A.

502.8(4) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner cannot submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant cannot submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

661—502.9(272C) Licensure by verification. Licensure by verification is available under the following circumstances.

502.9(1) Eligibility. A person may seek licensure by verification if all of the following criteria are satisfied:

a. The person is licensed, certified, or registered in at least one other issuing jurisdiction;

b. The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year;

c. The scope of practice in the transferring jurisdiction is substantially similar to the scope of practice in Iowa;

d. The person's license, certification, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration; and

e. The person either:

(1) Establishes residency in the state of Iowa pursuant to rule 701—38.17(422); or

(2) Is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station.

502.9(2) Board application. The applicant is to submit all of the following:

- a. A completed application for licensure by verification.
- b. Payment of the appropriate fee or fees.
- c. A verification form completed by the transferring jurisdiction, verifying that the applicant's license, certificate, or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form will be sent directly from the transferring jurisdiction to the board.
- d. Proof of current Iowa residency, or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant will submit proof that:
 - (1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and
 - (2) One or more of the following:
 1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or
 2. The applicant is registered to vote in Iowa, or
 3. The applicant maintains an Iowa driver's license, or
 4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.
- e. Documentation of the applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession.
- f. A copy of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

502.9(3) Applicants with prior discipline. If another issuing jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

502.9(4) Applicants with pending licensing complaints or investigations. If an Iowa applicant is concurrently subject to a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another issuing jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements.

502.10(1) Work experience.

a. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be considered to have met the applicable educational and training requirements if the person has at least three years of full-time work experience within the four years preceding the date of application for initial licensure. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar in nature and scope to a training or education program typically applicable for the license sought.

b. The applicant will need to satisfy all other license requirements, including passing any required examinations, to receive a license.

502.10(2) Documentation. An applicant seeking to substitute work experience in lieu of satisfying applicable education or training requirements bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

a. Proof of current residency in the state of Iowa pursuant to rule 701—38.17(17A), or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant is to submit proof that:

- (1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and
- (2) One or more of the following:
 1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or
 2. The applicant is registered to vote in Iowa, or
 3. The applicant maintains an Iowa driver's license, or
 4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.

b. Proof of three or more years of full-time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar in nature and scope to a training or education program typically applicable for the license sought. Proof of work experience may include, but is not limited to:

- (1) A letter from the applicant’s prior employer or employers documenting the applicant’s dates of employment and scope of practice;
- (2) Paychecks or pay stubs; or
- (3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.
 - c. Proof that the applicant’s work experience involved a substantially similar scope of practice to the practice in Iowa, which is to include:
 - (1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and
 - (2) Business or marketing materials detailing the services provided.
 - d. Proof that the other jurisdiction did not require a license to practice the profession, which may include:
 - (1) Copies of applicable laws;
 - (2) Materials from a website operated by a governmental entity in that jurisdiction; or
 - (3) Materials from a nationally recognized professional association applicable to the profession.

These rules are intended to implement Iowa Code chapters 103 and 272C.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

See updated 661-502 draft included with rulemaking package.

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	853
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	98

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	August 30, 2023	Total Rule Count:	6
IAC #:	661	Chapter/ SubChapter/ Rule(s):	503	Iowa Code Section Authorizing Rule:	103.6, 35, 36 & 39
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—503.1(103) Complaints. - The intended benefit of this rule is to notify the public of how complaints may be filed with the board and to provide clarity as to the procedures applicable to disciplinary proceedings.

661—503.2(103) Discipline. - The intended benefit of this rule is to provide clarity as to the procedures applicable to disciplinary proceedings.

661—503.3(103) Action against an unlicensed person. - The intended benefit of this rule is to provide clarity as to the procedures applicable to proceedings against unlicensed persons.

661—503.4(103) Appeals. - The intended benefit of this rule is to provide clarity as to the procedures applicable to appeal proceedings.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - The intended benefit of this rule is to provide clarity as to the procedures applicable to proceedings required by Iowa Code chapter 252J.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - The intended benefit of this rule is to provide clarity as to the procedures applicable to proceedings required by Iowa Code chapter 272D.

Is the benefit being achieved? Please provide evidence.

661—503.1(103) Complaints. - Yes, the benefit is being achieved.

661—503.2(103) Discipline. - Yes, the benefit is being achieved.

661—503.3(103) Action against an unlicensed person. - Yes, the benefit is being achieved.

661—503.4(103) Appeals. - Yes, the benefit is being achieved.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - Yes, the benefit is being achieved.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - Yes, the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

661—503.1(103) Complaints. - No public costs are incurred beyond the de minimis costs of completing and submitting a complaint form.

661—503.2(103) Discipline. - No public costs are incurred. However, a responding licensee would bear the cost of defending against the complaint and any disciplinary action imposed.

661—503.3(103) Action against an unlicensed person. - No public costs are incurred. However, a responding unlicensed person would bear the cost of defending against the complaint and any disciplinary action imposed.

661—503.4(103) Appeals. - No public costs are incurred beyond the de minimis costs of completing and submitting an appeal form.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - No public costs are incurred.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - No public costs are incurred.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—503.1(103) Complaints. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—503.2(103) Discipline. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272C.

661—503.3(103) Action against an unlicensed person. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—503.4(103) Appeals. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapter 103.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory

duties pursuant to Iowa Code chapters 103 and 252J.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - No specific financial costs needed to implement/enforce the rule outside of any costs associated with the board's statutory duties pursuant to Iowa Code chapters 103 and 272D.

Do the costs justify the benefits achieved? Please explain.

661—503.1(103) Complaints. - Yes, this helps protect the public against misconduct or malfeasance by board licensees.

661—503.2(103) Discipline. - Yes, this helps protect the public against misconduct or malfeasance by board licensees.

661—503.3(103) Action against an unlicensed person. - Yes, this helps protect the public against misconduct or malfeasance by persons lacking the necessary education, training, experience, and licensing to hold themselves out as an electrician.

661—503.4(103) Appeals. - Yes, this helps clarify appeal procedures for those who are adversely affected by a board action.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - Yes, this helps clarify board procedures.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - Yes, this helps clarify board procedures.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

661—503.1(103) Complaints. - No, the rule imposes minimal requirements to initiate the complaint process in an orderly manner.

661—503.2(103) Discipline. - No, the duties and responsibilities are mandated by state law.

661—503.3(103) Action against an unlicensed person. - No, the duties and responsibilities are mandated by state law.

661—503.4(103) Appeals. - No, the duties and responsibilities are mandated by state law.

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. - No, the duties and responsibilities are mandated by state law.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. - No, the duties and responsibilities are mandated by state law.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 503 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

661—503.1(103) Complaints. -

661—503.2(103) Discipline. -

661—503.3(103) Action against an unlicensed person. -

661—503.4(103) Appeals. -

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. -

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. -

RULES PROPOSED FOR REPEAL (list rule number[s]):

None

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 503
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
COMPLAINTS AND DISCIPLINE

661—503.1(103) Complaints. Any person may file a complaint regarding work performed by any licensee or licensee applicant, or by an unlicensed person who should possess a license issued by the board. Complaints can be filed either in writing or electronically.

661—503.2(103) Discipline. If a complaint alleging an act or acts in violation of Iowa Code chapter 103, rules adopted by the board, , or any other provision of law deemed relevant by the board to the use of a license issued by the board is substantiated, the board may suspend the license for a specific period of time, or indefinitely, may revoke the license, or may reprimand the licensee. The holder of a license which is suspended or revoked will be notified of the suspension or revocation in writing by registered mail, return receipt requested, or by personal service. The notice will include a statement that the licensee has the right to appeal the reprimand, suspension or revocation to the board within 30 days of receiving the notice, and that the reprimand, revocation or suspension will not take effect until the time to file an appeal has expired. If an appeal is filed, the reprimand, suspension or revocation is stayed until the appeal has been acted upon. The suspension of revocation becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board

EXCEPTION: If the board finds that a violation which is the basis of the suspension or revocation is such that allowing the licensee to continue to engage in work covered by the license would present an imminent threat to the safety of the public, the board may provide that the suspension or revocation take effect immediately upon notice being delivered to the licensee.

661—503.3(103) Action against an unlicensed person. If a person who is not licensed by the board has engaged in or is engaging in work requiring licensure by the board, the board may assess a civil penalty against the person, may seek an injunction to prevent the person from continuing to engage in such work, or both. A person who is accused of engaging in work where licensure is needed by law without having such a license will be notified of the specific allegations and intended remedial action by registered mail, return receipt requested, or by personal service. A person who is notified by the board of an intended remedial action under this rule may appeal the action as provided in rule 661—503.4. The intended remedial action becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board.

661—503.4(103) Appeals. A licensee whose license is disciplined, an applicant whose application for a license is denied, or a person who is not licensed by the board and who is assessed a civil penalty for engaging in an activity requiring a license may appeal the suspension, revocation, denial, or civil penalty to the board by notifying the board office of the appeal in writing within 30 calendar days after receiving notice of the suspension, revocation, denial, or civil penalty. Upon receipt of a timely appeal, the board will conduct a contested case hearing under 481, chapter 10.

[ARC 8396B, IAB 12/16/09, effective 2/1/10]

661—503.5(252J,103) Suspension or revocation for nonpayment of child support. The following procedures apply to actions taken by the board on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J.

503.5(1) The notice provided for by Iowa Code section 252J.8 will be served upon the licensee by certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

503.5(2) The effective date of revocation or suspension of a license, as specified in the notice provided for by Iowa Code section 252J.8, will be 60 days following service upon the licensee.

503.5(3) Licensees will keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and will provide the board with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

503.5(4) All applicable fees for an application or reinstatement is to be paid by the licensee before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

503.5(5) In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the board can count the number of days before the action was filed and the number of days after the action was disposed of by the court.

503.5(6) Suspensions or revocations imposed pursuant to this rule cannot be appealed administratively to the board or within the department of inspections, appeals, and licensing.

NOTE: The procedures established in rule 661—503.5(252J,103) implement Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a licensing program.

661—503.6(103,272D) Suspension or revocation for nonpayment of debts owed state or local government. The following procedures will apply to actions taken by the board on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D.

503.6(1) The notice provided for by Iowa Code section 272D.3 can be served upon the licensee by regular mail.

503.6(2) The effective date of revocation or suspension of a license, as specified in the notice provided for by Iowa Code section 272D.3, will be 20 days following service upon the licensee.

503.6(3) Licensees will keep the board informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and will provide the board with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

503.6(4) All applicable fees for an application or reinstatement is to be paid by the licensee before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

503.6(5) In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the board can continue with the intended action described in the notice upon the receipt of a court order lifting

the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the board can count the number of days before the action was filed and the number of days after the action was disposed of by the court.

503.6(6) Suspensions or revocations imposed pursuant to this rule cannot be appealed administratively to the board or within the department of inspections, appeals and licensing.

NOTE: The procedures established in rule 661—503.6(103,272D) implement Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

See updated 661-50XX draft included with rulemaking package.

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	49
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	36

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	08/30/2023	Total Rule Count:	5
IAC #:	661	Chapter/ SubChapter/ Rule(s):	661-505	Iowa Code Section Authorizing Rule:	103.4 ,6, 12, 12A, & 18
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—505.1 to 505.100 Reserved. - This was a place holder for possible future rules.

661—505.101(103) Program approval. - The intended benefit of this rule is to make sure educational institutions are approved prior to students taking classes and receiving a degree.

661—505.102(103) Standards for postsecondary electrical education programs. - The intended benefit of this rule is to make sure students are taking the correct courses to gain the necessary training and experience that is required when working in the industry.

661—505.103 to 505.200 Reserved. - This was a place holder for possible future rules.

661—505.201(103) Continuing education requirements. - The intended benefit of this rule is to provide clarity and direction.

661—505.202(103) Course approval. - To make sure course content covers subject matter required by state law.

661—505.203(103) Requirements for continuing education programs. - The intended benefit of this rule is to provide clarity and direction and to help ensure that instructors are qualified.

Is the benefit being achieved? Please provide evidence.

661—505.1 to 505.100 Reserved. - It is proposed that this rule be repealed as there is no benefit to this rule.

661—505.101(103) Program approval. Yes, students are not taking classes that are not relevant to the training the industry requires.

661—505.102(103) Standards for postsecondary electrical education programs. – Yes, this rule makes sure students are taking the correct courses to gain the necessary training and experience that is required when working in the industry.

661—505.103 to 505.200 Reserved. - It is proposed that this rule be repealed as there is no benefit to this rule.

661—505.201(103) Continuing education requirements. - Yes, by providing clarity and direction.

661—505.202(103) Course approval. - Yes, to make sure course content is covered as established in state law.

661—505.203(103) Requirements for continuing education programs. - Yes, the benefit is achieved by making sure instructors are qualified.

What are the costs incurred by the public to comply with the rule?

661—505.1 to 505.100 Reserved. - No public costs are incurred.

661—505.101(103) Program approval. - De minimis costs will be involved in completing and submitting approval forms. Normal cost of any educational program will be incurred developing and presenting approved curriculum.

661—505.102(103) Standards for postsecondary electrical education programs. - Normal cost of any educational program will be incurred developing and presenting approved curriculum.

661—505.103 to 505.200 Reserved. - No public costs are incurred.

661—505.201(103) Continuing education requirements. - Normal cost of any educational program will be incurred developing and presenting approved curriculum.

661—505.202(103) Course approval. - De minimis costs will be involved in completing and submitting approval forms. Normal cost of any educational program will be incurred developing and presenting approved curriculum.

661—505.203(103) Requirements for continuing education programs. - Normal cost of any educational program will be incurred developing and presenting approved curriculum.

What are the costs to the agency or any other agency to implement/enforce the rule?

661—505.1 to 505.100 Reserved. - No cost incurred.

661—505.101(103) Program approval. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

661—505.102(103) Standards for postsecondary electrical education programs. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

661—505.103 to 505.200 Reserved. - No cost incurred.

661—505.201(103) Continuing education requirements. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

661—505.202(103) Course approval. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

661—505.203(103) Requirements for continuing education programs. - No specific financial costs needed to implement/enforce the rule outside general operating budget.

Do the costs justify the benefits achieved? Please explain.

661—505.1 to 505.100 Reserved. - N/A

661—505.101(103) Program approval. – Yes, this assures that student’s educational training will be credited toward future licensure requests.

661—505.102(103) Standards for postsecondary electrical education programs. - Yes, this assures that the training students receive will help them have the necessary knowledge to provide safe installations.

661—505.103 to 505.200 Reserved. - N/A

661—505.201(103) Continuing education requirements. – Yes, technology is constantly changing in the industry and this assures industry professionals are keeping up with the changing industry.

661—505.202(103) Course approval. – Yes, this assures that the courses went the requirements set forth in state laws.

661—505.203(103) Requirements for continuing education programs. – Yes, this assures instructors and institutions have the necessary knowledge and training to educate licensees.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

661—505.1 to 505.100 Reserved. - This was a place holder for possible future rules and is not needed.

661—505.101(103) Program approval. - No, the duties and responsibilities are mandated by state law.

661—505.102(103) Standards for postsecondary electrical education programs. - No, the duties and responsibilities are mandated by state law.

661—505.103 to 505.200 Reserved. - This was a place holder for possible future rules and is not needed.

661—505.201(103) Continuing education requirements. - No, the duties and responsibilities are mandated by state law.

661—505.202(103) Course approval. - No, the duties and responsibilities are mandated by state law.

661—505.203(103) Requirements for continuing education programs. - No, the duties and responsibilities are mandated by state law.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, each rule within chapter 505 has a component that falls under one or more of the above referenced categories and is able to be revised to remove language that is unnecessary or duplicative of other state or federal law:

661—505.1 to 505.100 Reserved.

661—505.101(103) Program approval.

661—505.102(103) Standards for postsecondary electrical education programs.

661—505.103 to 505.200 Reserved.

661—505.201(103) Continuing education requirements.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—505.1 to 505.100 Reserved.

661—505.103 to 505.200 Reserved.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 505
ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—EDUCATION

DIVISION I
POSTSECONDARY ELECTRICAL EDUCATION PROGRAMS

661—505.101(103) Program approval.

505.101(1) Pursuant to Iowa Code sections 103.12 and 103.12A, an educational institution that plans to offer a postsecondary electrical education program to prepare students to be licensed by the board needs to first obtain approval from the board for the program before students participate in the program. Separate approval is needed for a journeyman electrician

program and for a residential electrician program.

505.101(2) The educational institution seeking approval is to apply to the board office on a form specified by the board. The application is to include a certification that the educational institution is currently accredited by a recognized regional or national educational accrediting organization.

505.101(3) Applications seeking initial approval of a journeyman electrician program or a residential electrician program are to be submitted to the board at least 60 days prior to student participation in the program.

505.101(4) The board may set times for periodic review of approved programs and can develop policies that address the following:

- a. Requirements for the submission of applications.
- b. Standards required for program approval.
- c. Standards for withdrawal of approval or discontinuation of an approved program.
- d. Standards for educational content and class attendance, qualifications for instructors, documentation and reporting needed to establish compliance with program requirements, and specification of degrees or diplomas awarded.

505.101(5) Information regarding approved postsecondary electrical education programs may be obtained by contacting the board office. A list of approved postsecondary electrical education programs and other information about postsecondary electrical education programs will be posted on the board's Web site.

661—505.102(103) Standards for postsecondary electrical education programs. The board will develop policies establishing the following minimum standards for an approved postsecondary electrical education program:

505.102(1) All necessary subject matter areas as published by the board and available on request from the board office and from the board Website. Instruction is to include at least 4 hours of instruction on the Iowa electrical statute, Iowa Code chapter 103, with a minimum of 1 hour on Iowa electrical licensing requirements.

505.102(2) Minimum number of contact hours and necessary program attendance policies. Each approved program is to include 30 to 40 percent of contact hours that involve lecture, with all remaining hours consisting of laboratory or shop hours. A student cannot take the licensing examination until all contact hours and the specified number of hours of on-the-job training are completed.

a. A postsecondary electrical education program for a journeyman electrician license is to include at least 2000 hours of instruction, with the student completing at least 6000 hours of on-the-job training before the student will be eligible to take the journeyman electrician examination.

b. A postsecondary electrical education program for a residential electrician license is to include at least 1000 hours of instruction, with the student completing at least 4000 hours of on-the-job training before the student will be eligible to take the residential electrician examination.

505.102(3) Minimum qualifications for instructors which includes:

- a. Current licensing as an electrician, as set out in the board's policy; and
- b. Compliance with standards set by the Iowa department of education for an instructor at a community college.

DIVISION II
CONTINUING EDUCATION

661—505.201(103) Continuing education requirements. Each holder of a three-year license, is to complete 18 hours of continuing education approved by the board between the time of issuance of the license and prior to issuance of a renewal license.

EXCEPTION: A holder of a license in a category which may be issued for a three-year period whose license is issued for less than a three-year period only needs to complete 6 hours of continuing education prior to renewal of the license for each year or portion of a year for which the license has been issued.

661—505.202(103) Course approval.

505.202(1) Any person or institution that plans to offer continuing education courses to meet the requirements of rule 661—505.201(103) is to apply for approval to the board office on a form specified by the board.

505.202(2) Approval by the board should be obtained prior to a course's being offered to a licensee in order to meet the requirements of rule 661—505.201(103).

505.202(3) Applications for initial approval of a continuing education course are to be submitted to the board not less than 45 days prior to student participation in the course.

505.202(4) Approval of a continuing education course is normally for the duration of the three-year licensing period during which approval is received, although approval may be withdrawn for cause prior to the expiration of the licensing period.

505.202(5) Applications for renewal of approval of continuing education courses are to be submitted to the board at least 45 days prior to the expiration of the three-year licensing period. For purposes of this subrule, “renewal” may include the updating of course material in a course previously approved for delivery by the same instructor.

505.202(6) Information regarding approved continuing education courses may be obtained by contacting the board office. A list of approved continuing education courses will be posted on the board Web site.

661—505.203(103) Requirements for continuing education programs. A continuing education program can be approved by the board only if the following requirements are met:

505.203(1) The instructor or institution applying for approval of a continuing education course provides at least three letters from educational institutions or government agencies attesting to the instructor’s knowledge of and qualifications to teach the subject matter of the course for which approval is sought.

505.203(2) Each instructor is responsible for:

- a. Obtaining and verifying course approval prior to delivery of the course.
- b. Facilitating auditing of the course by any board member or member of the staff of the board. No board or staff member may receive continuing education credit for an audited course.
- c. Issuing a certificate of completion to each student who completes the course.
- d. Submitting a class roster, indicating which students completed the course, to the board office within 30 days of completion of the course.

These rules are intended to implement Iowa Code chapter 103.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

See updated 661-505 draft included with rulemaking package.

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	320
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	40

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Inspections, Appeals, and Licensing	Date:	08/30/2023	Total Rule Count:	4
IAC #:	661	Chapter/ SubChapter/ Rule(s):	506	Iowa Code Section Authorizing Rule:	272C.12A
Contact Name:	Ashleigh Hackel	Email:	Ashleigh.Hackel@dia.iowa.gov	Phone:	515-250-3746

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

661—506.1 Definitions. - To define terms used in the chapter.

661—506.2 Military education, training, and service credit. - To explain the process for completion and submission of a military service application form, in order to receive credit for military education, training, and service toward any experience or educational requirement for licensure.

661—506.3 Veteran and spouse of active duty service member reciprocity. - To explain the application process for licensure through reciprocity for veterans or spouses licensed in another jurisdiction.

661—506.4 Spouses of military members. - To explain the application process for licensure through reciprocity for veterans or spouses licensed in another jurisdiction.

Is the benefit being achieved? Please provide evidence.

Yes, the rule chapter provides guidance for how military service/spouse applicants apply, qualifying education, and reciprocity. It is proposed that this chapter be repealed. It is no longer necessary with state realignment. It will be consolidated into one chapter for all of DIAL.

What are the costs incurred by the public to comply with the rule?

The only costs incurred by the public are the costs of incurred by military applicants, spouses, or veterans who have determined that the benefit of the programs exceeds any de minimis administrative cost or burden associated with application.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no specific costs for implementation or enforcement of this rule outside of the board’s general task of receiving, reviewing, and responding to license applications.

Do the costs justify the benefits achieved? Please explain.

While the costs of this rule do justify the benefits received, the department is recommending that this entire chapter is rescinded in favor of a single chapter on this topic applicable to all applicable divisions and

boards within the Department of Inspections, Appeals and Licensing. Doing so will better encompass the realignment of the agencies and the goals of Executive Order 10 as it will combine multiple boards' chapters on this topic into one.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Eliminating this chapter and creating one general chapter for all divisions and boards reduces the text of the Administrative Code and is the least restrictive alternative to implementing Iowa Code chapter 272C with respect to active military applicants, their spouses, and veterans.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, this entire chapter is redundant and can be rescinded.

RULES PROPOSED FOR REPEAL (list rule number[s]):

661—506.1 Definitions.

661—506.2 Military education, training, and service credit.

661—506.3 Veteran and spouse of active duty service member reciprocity.

661—506.4 Spouses of military members.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

None. One rule chapter for the DIAL agency would be applicable.

****For rules being re-promulgated with changes, please attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	1335
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	49

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?